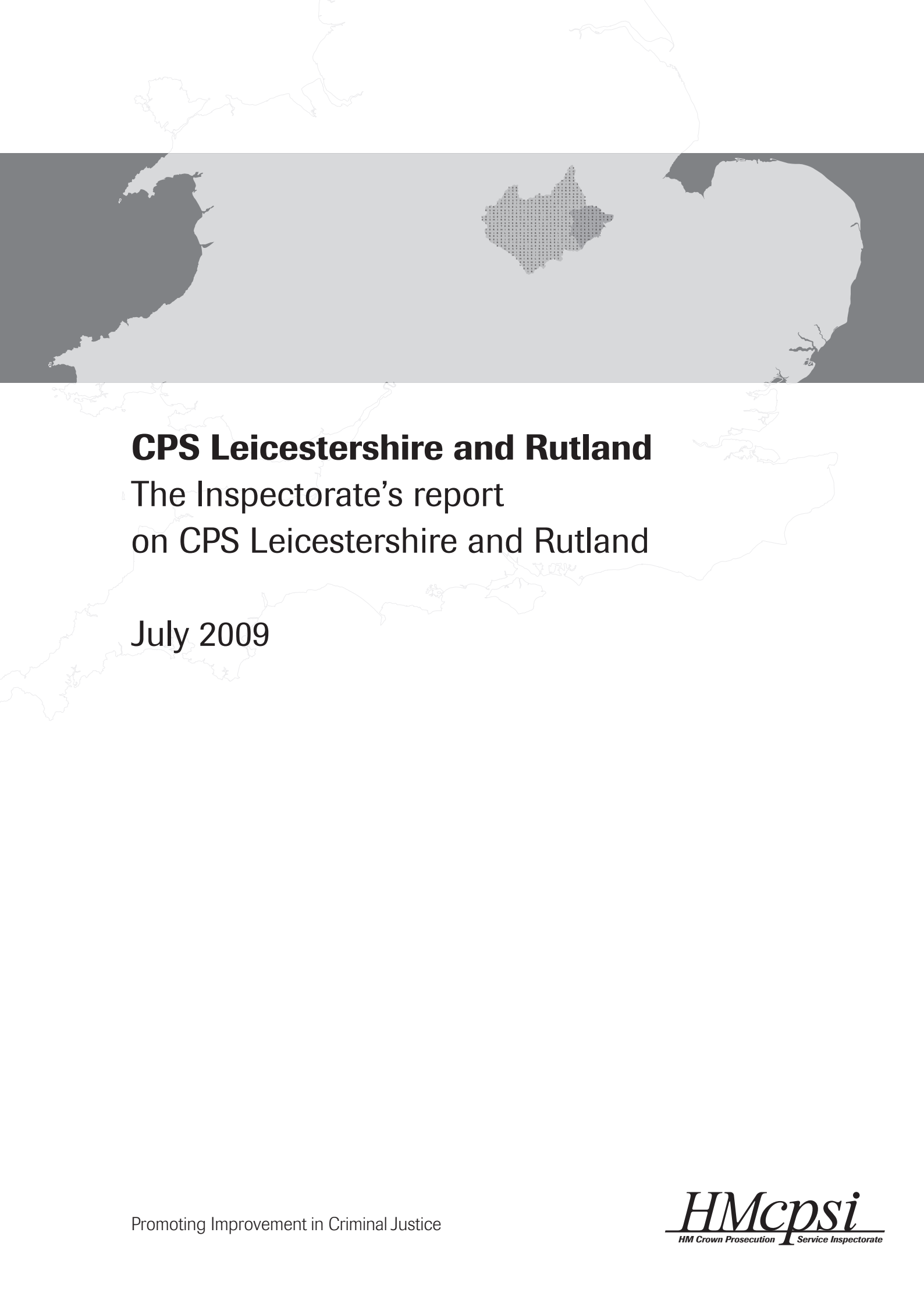




CPS Leicestershire and Rutland
The Inspectorate's report
on CPS Leicestershire and Rutland

July 2009





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PREFACE

Her Majesty's Crown Prosecution Service Inspectorate (HMCPsi) was established by the Crown Prosecution Service Inspectorate Act 2000 as an independent statutory body. The Chief Inspector was appointed by, and reports to, the Attorney General.

HMCPsi's purpose is to enhance the quality of justice through independent inspection and assessment which improves the effectiveness of prosecution services, and provides assurances to ministers, government and the public. Its statutory remit includes the Crown Prosecution Service (CPS) and the Revenue and Customs Prosecution Office (RCPO). It also inspects, under delegated authority from the Chief Inspector of Criminal Justice in Northern Ireland, the Public Prosecution Service there.

We work in partnership with other agencies, including the CPS itself, but without compromising our independence, and with other criminal justice inspectorates. Each year, as well as conducting inspections and casework audits of the CPS business units - the 42 areas, central casework divisions and headquarters directorates - we also carry out thematic reviews across the CPS, or across the criminal justice system, jointly with other criminal justice inspectorates.

In 2007-08 we undertook the second overall performance assessment of all 42 CPS areas and published a summative report on the performance of the CPS as a whole. In those reports we assessed the individual CPS areas as excellent, good, fair or poor. All our reports are available on our website www.hmcp.si.gov.uk.

In 2009-10 we are carrying out a full inspection of those areas found to be poor in order to assess whether performance has improved, and will carry out other risk-based inspections of CPS areas as necessary. We are unlikely to be inspecting those areas assessed as good or excellent. Those areas may nevertheless be visited in the course of a programme of casework audits or as part of thematic reviews.

The Government has initiated a range of measures to develop cohesion and better co-ordinated working arrangements amongst the criminal justice agencies, so that the system operates in a more holistic manner. Public Service Agreements between HM Treasury and the relevant departments set out the expectations which the Government has of the criminal justice system at national level. However, it is our experience that the targets can frequently be achieved notwithstanding significant inefficiencies in the processes and without work necessarily being of a suitable standard. HMCPsi does not therefore necessarily accept that simply meeting the targets is indicative of satisfactory performance. Additionally, although in our reports we frequently make comparisons with national average performance, this does not necessarily mean that the national average performance is considered an acceptable standard. If a particular aspect of performance represents a weakness across CPS areas generally, it will be possible for an area to meet or exceed the national average without attaining the appropriate standard.

The Chief Inspector has set out a statement of his expectations of prosecuting authorities:

"The hallmark of good quality prosecution is that each case is dealt with individually at each stage according to its merits, with the degree of care which reflects the fact that it impacts on the lives of people, and with the degree of proactivity and vigour that would be expected by the public".

The inspection process focuses heavily on the quality of casework decision making and casework handling that leads to successful outcomes in individual cases, and extends to overall CPS performance. Consistently good casework is invariably underpinned by sound systems, good management and structured monitoring of performance. We have made clear what we consider acceptable in our inspection framework (summarised at Annex A) and in our casework standards.

Inspection teams comprise legal and business management inspectors working closely together. HMCPSI also invites suitably informed members of the public, nominated by national organisations, to join the process as lay inspectors. These inspectors are unpaid volunteers who examine the way in which the CPS relates to the public, through its dealings with witnesses and victims, its engagement with the community including minority groups, its handling of complaints and the application of the public interest test contained in the Code for Crown Prosecutors.

HMCPSI has offices in London which house the Southern Group, and York, which house the Northern and Wales Group. Both groups undertake CPS business unit inspections, thematic reviews and joint inspections with other criminal justice inspectorates. At any given time HMCPSI is likely to be conducting several CPS based inspections and thematic reviews, as well as joint inspections.

The inspectorate's reports identify strengths and aspects for improvement, draw attention to good practice and make recommendations in respect of those aspects of performance which most need to be improved. The definitions of these terms may be found in the glossary at Annex H.

1 DESCRIPTION AND CASELOAD OF CPS LEICESTERSHIRE AND RUTLAND

1.1 This is Her Majesty's Crown Prosecution Service Inspectorate's report about CPS Leicestershire and Rutland (the area) which serves the area covered by the Leicestershire Constabulary. It has one office which is at Leicester.

1.2 Area business is divided on functional lines between magistrates' courts and Crown Court work. The Criminal Justice Units (CJUs) are responsible for the conduct of all cases dealt with in the magistrates' courts. The City CJU covers Leicester and mainly cases at Market Harborough Magistrates' Courts and County CJU covers cases at Melton Mowbray, Coalville, Hinkley, Loughborough and Oakham magistrates' courts. The Trials Unit (TU) reviews and handles cases dealt with in the Crown Court sitting at Leicester.

1.3 At the time of the inspection in April 2009, the area employed the equivalent of 108 full-time staff. Details of staffing is set out below:

Grade	Number
CCP	1.0
Level E	1.0
Level D	2.8
Crown advocates	11.8
Level C lawyers (includes legal trainee)	23
Associate prosecutors	8.0
Level B3 and B2 caseworkers	2.6
Level B1 caseworkers	20.7
Level A caseworkers	38
Total	108.9

A detailed breakdown of staffing and structure can be found at Annex B.

1.4 Details of the area's caseload in 2008-09 are as follows:

Magistrates' courts' cases	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	7,729	32.2%	34.0%
Advice	0	0.0%	0.0%
Summary	10,496	43.8%	38.3%
Either way and indictable only	5,758	24.0%	27.5%
Other proceedings	6	0.0%	0.2%
Total	23,989	100.0%	100.0%

These figures include the cases set out in the next table, as all Crown Court cases commence in the magistrates' courts. In 2,515 of the 7,729 area pre-charge decisions, the decision was that there should be no prosecution. Overall, decisions not to prosecute account for 10.5% of the area's caseload. Where pre-charge advice results in the institution of proceedings, the case will also be counted under the relevant category of summary or either way/indictable in the caseload numbers.

- 1.5 Details of the area's Crown Court caseload in 2008-09 are:

Crown Court cases	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	548	27.7%	29.0%
Either way offences	834	42.2%	45.2%
Appeals against conviction or sentence	275	13.9%	10.0%
Committals for sentence	320	16.2%	15.8%
Total	1,977	100.0%	100.0%

- 1.6 A more detailed table of caseloads and case outcomes compared to the national average is attached at Annex C and a table of caseload in relation to area resources at Annex D. Since our last inspection in 2007 the area has been subject to a reduction of 2% in its budget from £5,281,570 to £5,174,482. Staff numbers have decreased from 118.2 to 108.9 over the same period.

The report, methodology and nature of the inspection

- 1.7 The inspection process is based on the inspection framework summarised at Annex A. The chapter headings in this report relate to the standards and the section headings relate to the criteria against which we measure CPS areas. The italicised sub-headings identify particular issues within those criteria.
- 1.8 There are two types of inspection. A full inspection considers each aspect of area performance within the framework. A risk based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on our overall performance assessment (OPA) and other key data.
- 1.9 The OPA of CPS Leicestershire, undertaken in December 2007, assessed the area as poor. As a result of this it was determined that the inspection of the area should be a full one.
- 1.10 Our methodology combined examination of 80 cases finalised between November 2008 and January 2009 and interviews and questionnaires completed by criminal law practitioners and local representatives of criminal justice agencies members and interviews with CPS staff at all levels. Our file sample was made up of pre-charge decision cases, magistrates' courts and Crown Court trials (whether acquittals or convictions), and some specific types of cases. A detailed breakdown of our file sample is shown at Annex E.
- 1.11 We make a number of assessments about the quality of decision-making and case handling in the course of the file examination. Key assessments are shown in tables at the start of chapters 2 and 3. Findings from the file examination have not been compared to the findings from the other area effectiveness inspection as this is only the second inspection of this type. There is a risk that any comparison against a limited file sample would be of limited value.

- 1.12 A list of individuals we met or from whom we received comments is at Annex F. The team carried out observations of the performance of advocates and the delivery of service at court in both the magistrates' courts and the Crown Court. We also carried out observations at charging centres.
- 1.13 Inspectors visited the area between 20 April 2009 and 28 April 2009. The lay inspector for this inspection was Jackie Worrall, who was nominated by the National Association for the Care and Resettlement of Offenders. The role of the lay inspector is described in the introduction. The lay inspector examined files that had been the subject of particular public interest considerations or complaints from members of the public and also considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. She also visited some courts and had the opportunity to speak to some of the witnesses after they had given evidence. This was a valuable contribution to the inspection process. The views and findings of the lay inspector have been included in the report as a whole, rather than separately reported. She gave her time on a purely voluntary basis, and the Chief Inspector is grateful for her effort and assistance.
- 1.14 The purpose and aims of the Inspectorate are set out in Annex G. A glossary of the terms used in this report is contained in Annex H.

2 SUMMARY OF INSPECTION FINDINGS AND RECOMMENDATIONS

Contextual factors and background

- 2.1 CPS Leicestershire and Rutland was last subject to a full inspection in April 2007. Subsequently in December 2007, it was rated as poor in HMCPSI's overall performance assessments (OPAs) of all CPS areas. This was primarily the result of poor management of area resources, failures in victim and witness care and poor results in magistrates' courts casework. In October 2007 a new permanent CCP took up her post, and there was also a number of changes to senior posts including unit heads.
- 2.2 The area used the recommendations outlined in the 2007 inspection report and the findings of the OPA as a blueprint for change. Area staff viewed the OPA rating as disappointing, but used it as a means of galvanising the good work that was taking place in the area and refocused activity to address the aspects of weakness highlighted.
- 2.3 At the time of this inspection, the area had made changes to the arrangements for charging as the result of a comprehensive joint review undertaken in April 2008. Additionally the area has introduced the CPS optimum business model of working to improve case preparation and readiness in magistrates' courts cases. As part of the drive to improve results and processes, the area has also worked closely with the courts to ensure that Simply Speedy Summary Justice (CJSSS) is a success.
- 2.4 The purpose of this inspection was to assess the progress the area has made since the OPA. This summary provides an overview of the inspection findings as a whole.

Summary of findings

- 2.5 CPS Leicestershire and Rutland has made substantial strides in addressing all the weaknesses identified in the last inspection and OPA. The area has established a clear sense of purpose, a vision which resonates with those working in the area, and harnessed the pride and enthusiasm of staff to 'do justice in every case'. Inspectors were impressed with the positive attitude and approach of all staff in the desire to improve performance and do a good job.
- 2.6 The focus on 'going back to the basics' as highlighted in the last inspection report halted the drift that was apparent in 2007. The area has used this as a route-map for change and directed improvement activity on those matters which can impact upon public confidence. The area strategic board has marshalled change, identifying interdependencies in doing so; the appointment of a dedicated change manager to ensure the effective implementation of a number of major change initiatives has been a good investment.
- 2.7 As performance and outcomes have improved, the area has been able to regain the confidence of criminal justice partners. They have been keen to impress upon inspectors that the CPS was a much improved organisation. Partners now trust the CPS to deliver on its promises. The relationship with the police has been reinvigorated through the joint approach to charging and is helped by the willingness of the CPS to address problems and provide solutions. This partnership approach has produced substantial benefits to the local criminal justice system; police files are of better quality, cases are beginning to progress more effectively, and most results have improved since the last OPA.
- 2.8 Whilst our file examination revealed a generally positive picture of decision-making there were some variations in quality. The area has made a number of changes to the charging processes and systems as a result of the joint charging review. Many of the files in our sample pre-dated

the implementation of the new arrangements. Because of this, we specifically looked at a sample of current cases whilst we were on-site. Although the sample was relatively small there was evidence of a greater consistency in the standard of decision-making and case preparation.

- 2.9 Area handling of unused material has also improved to the extent that disclosure performance was well above the national average at the time of our last thematic review of disclosure. The area has taken a number of positive steps to improve, including commissioning a review of files by CPS headquarters and implementing those recommendations. Unused material is also specifically considered by duty prosecutors at charging in all likely summary trial cases. Some attention needs to be given to the more consistent completion of disclosure record sheets.
- 2.10 At the time of the last OPA, area performance was hampered by a lack of effective case progression; this was especially so in magistrates' court cases. The introduction of the Optimum Business Model (OBM) approach to working, and CJSSS have resulted in improvements. This change is evidenced by the improved results in the magistrates' court successful outcomes and effective trials, although both remain below the national average.
- 2.11 Changes have not yet manifested themselves to the same extent in Crown Court casework. Case progression there needs to be improved. The area approach to Crown Court caseworker deployment results in reduced availability for committal preparation; there is evidence that this is resulting in some delays and makes case progression more reactive than proactive. This has also had an impact on area performance with regard to custody time limits. The area has recognised this and has recently commissioned a review of Crown Court case preparation with a view to using the efficiencies identified from OBM and implementing these in the trials unit.
- 2.12 One aspect of real weakness at the last OPA was the service offered to victims and witnesses by the area. A number of improvements have been made, and the area is now mainly complying with the need to notify victims when cases are dropped or substantially altered. A recent change to victim and witness care in magistrates' court cases, which has been progressed jointly, has some scope for further improvement. There is no doubt that CPS Leicestershire and Rutland are offering a better service to victims and witnesses since our last visit and there are structures and processes in place which the area can use to improve their service even further.
- 2.13 The area has an effective community engagement strategy. It is using this engagement to drive improvement positively using findings from scrutiny panels to learn lessons. The general approach to dealing with sensitive cases and hate crime is positive. Area champions use their expertise to direct training and identify weaknesses and strengths. The area has worked with Her Majesty's Courts Service to introduce specialist domestic violence courts which have been successful in driving up performance. Area outcomes for serious violent and sexual offences, and hate crimes are mixed. The area outcomes in respect of hate crime are excellent. However, in contrast, the rate of successful outcomes in rape cases was poor in 2008-09, although area specialists and co-ordinators are working with partners to improve. Much of the emphasis is focused on ensuring that specialist prosecutors are involved in dealing with cases at the outset.
- 2.14 The implementation of new systems since the OPA has improved the area's management of its resources. Managers have taken a bold approach in limiting the availability of flexible working arrangements where unit targets have not been met and in managing vacancies to cope with a reduction in budget resulting from a reduced caseload. The area has exceeded its target for deployment of associate prosecutors (APs) in the magistrates' court and deploys its higher courts advocates (HCAs) effectively in the Crown Court.

- 2.15 The standard of advocacy in the magistrates' courts is satisfactory. Court listing arrangements have assisted the effective deployment of APs who are generally well regarded by other court users. HCAs are monitored in the Crown Court although assessments could be more robust and need to be followed by action plans detailing the areas for improvement.

Conclusions

- 2.16 The area has made considerable improvements since the last OPA and continues to move forward. Some of the changes such as OBM, CJSSS and revised charging arrangements are inevitably recent but there is already evidence that they are having a positive effect on performance. Significant improvements have been demonstrated in most case outcomes and, although some remain below the national averages, the area has in place the processes and systems to achieve better. Senior managers have fostered a culture of pride in the area which is demonstrated by staff at all levels and provides a firm foundation for continued improvement. In the light of our overall findings, CPS Leicestershire and Rutland is now rated as **FAIR**.

Summary of judgements

Critical aspects	OPA 2007	Inspection 2009	Direction of travel
Pre-charge advice and decisions	Fair	Good	Improved
Decision-making, preparation and progression in magistrates' courts' cases	Poor	Fair	Improved
Decision-making, preparation and progression in Crown Court cases	Fair	Fair	Improved
The service to victims and witnesses	Poor	Fair	Improved
Leadership and management ¹	Fair	Good	Improved
Overall critical assessment level	Poor	Fair	Improved
The prosecution of cases at court	Fair	Good	Improved
Serious violent and sexual offences and hate crimes	Good	Good	Stable
Disclosure of unused material	Fair	Good	Improved
Custody time limits	Fair	Fair	Stable
Managing performance to improve	Fair	Good	Improved
Managing resources	Poor	Fair	Improved
Partnership working and community confidence	No direct comparator	Good	No direct comparator ²
Overall assessment	Poor	Fair	Improved

1 Leadership and management captures elements included formally in "Delivering change" which has now been removed from the framework as a stand alone aspect.

2 No direct comparison possible as the framework against which the area is inspected has been changed.

Recommendations

2.17 We make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority.

2.18 We have made four recommendations to help improve the Area's performance.

1 Area managers take the necessary action to ensure case progression in Crown Court cases is improved (paragraph 5.9)

2 Area managers ensure the quality of instructions to advocates is improved (paragraph 5.13)

3 Area managers ensure that the disclosure record sheet is completed in every case so that it provides a complete audit trail of all disclosure actions and events (paragraph 8.15)

4 The area, working with police partners, should ensure that WCU staff are trained to use WMS appropriately, understand their roles and why it is important to capture information (paragraph 10.8)

Aspects for improvement

2.19 We additionally identified five aspects for improvement within the area's performance.

1 The dissemination of learning points effectively across the area (paragraph 7.7)

2 The area should further develop the sharing of lessons learned to help inform future charging decisions and enhance understanding of Crown Court practice (paragraph 11.6)

3 The area needs to ensure a consistent approach when checking standards across the area (paragraph 11.8)

4 Controls on prosecution costs and graduated fee scheme payments should be improved (paragraph 12.6)

5 The area needs to ensure there are sufficient opportunities for crown prosecutors to undertake magistrates' courts trial advocacy (paragraph 12.10)

Strengths

2.20 We identified four strengths within the Area's performance.

1 The use of the case management system to record actions (paragraph 5.22)

2 The effective communication of a clear vision and message that has been fully accepted and understood by staff (paragraph 13.7)

3 The approach to acknowledging good performance (paragraph 13.20)

4 The approach to community engagement and the way this has been prioritised and used to improve area processes and outcomes (paragraph 14.8)

Good practice

2.21 We also identified four examples of good practice:

1 The adoption of a comprehensive charging manual which includes charging guidance on common offences (paragraph 3.11)

2 The holding of advocacy master classes to drive up the quality of trial advocacy (paragraph 6.6)

3 Quarterly performance reports in the specialist case categories which are used to direct training and action for improvement (paragraph 7.5)

4 The introduction of a performance meeting of all unit heads together with the CCP and ABM which has had the effect of galvanising the area to seek to improve as a cohesive whole (paragraph 11.3)

3 PRE-CHARGE ADVICE AND DECISIONS	OPA 2007	AI 2009	Direction of travel
	Fair	Good	Improved

Quality of advice and decisions

3.1 At the time of the OPA in 2007, the area's performance in pre-charge decision-making was assessed as fair. This represented a decline since the previous OPA in 2005. Following the 2007 assessment, the area has made considerable efforts to improve and has been largely successful in this respect.

3.2 We examined 74 finalised cases which had been the subject of a pre-charge decision (PCD) and where the decision was to authorise charge. Seventy decisions had been taken by the area's prosecutors, four decisions had been taken by prosecutors from CPS Direct (CPSD), the CPS national out of hours service. Our findings are set out in the table below.

Pre-charge	All decisions (Area and CPSD)	Area only decisions
Advice and decisions complying with evidential stage in the Code	90.5%	95.8%
Advice and decisions complying with public interest stage in the Code	100.0%	100.0%
Appropriate alternative disposals and ancillary orders were considered and acted upon	75.5%	78.4%
Prosecutor was active in identifying and remedying evidential defects	88.1%	90.0%

3.3 The application of the evidential stage of the full Code test accorded with the Code for Crown Prosecutors (the Code) in 67 out of 70 relevant cases (95.7%) on which area prosecutors had made the decision. Decisions did not accord with the evidential stage of the Code test in a total of seven cases, three of which had been made by the area and four by CPSD. The public interest stage was applied in accordance with the Code in all cases.

3.4 The threshold test was applied initially in 16 of the 74 cases. It was applied correctly in 14 cases (87.5%) and the reasons for applying the threshold test were recorded in 13 cases (81.2%). The threshold test was applied incorrectly in two cases; in one the decision was made by the area, the other by CPSD. There were eight cases in our file sample that were later discontinued with no change in circumstances since the original pre-charge decision.

3.5 The most appropriate charge was selected by the duty prosecutor in 67 of the 74 cases (90.5%) in our file sample. We were told by representatives of other criminal justice agencies that there have been some concerns over the levels of charging in assault cases. It was considered that some cases were undercharged and affected the court's sentencing powers. Although we found no specific example of such undercharging in our file sample, area managers had identified some concerns themselves and had taken steps, through training, to address this. Five of the

seven cases where we considered that the most appropriate charge was not selected related to allegations of assault. In each case, the issue did not relate to the level of injury but to other evidential aspects in the individual case. Two of the cases were CPSD charging decisions.

Recording decisions

- 3.6 Duty prosecutors record their decision electronically in the charging centre on the MG3. They are required to set out an analysis of the evidence (highlighting strengths and weaknesses and the evidential and public interest considerations) as well as any relevant sentencing issues. They should also deal with the question of bail or custody where this may be in contention. Other matters which should be specifically recorded include reference to relevant CPS policy (for example in domestic violence cases) and ancillary issues such as the need for special measures to assist witnesses in giving evidence, bad character and hearsay evidence, and confiscation of assets. There were 53 cases within our file sample which raised such issues at the pre-charge decision stage. They were adequately recorded on the MG3 in 40 cases (75.5%). Some failed to record obvious matters such as witness needs in domestic violence cases. In other instances, issues were referred to but the duty prosecutor failed to give any detailed explanation.
- 3.7 If further evidence or information is required before a charging decision can properly be made, the duty prosecutor will set them out in the MG3 and agree an action plan with the investigating officer and police gatekeeper for the completion of those enquiries. The duty prosecutor should be clear on the MG3 about the nature of the evidence or information required and ensure that sufficient time is allowed for completion without delaying the charging process unnecessarily. The action plan for further enquiries agreed between the officer and the duty prosecutor complied with the standard in 37 out of 42 relevant cases (87.8%).
- 3.8 Overall the quality of MG3s was variable as the following table shows.

Standard of forms recording charging decisions (MG3s)

	Excellent	Good	Fair	Poor	Total
Overall	5 (6.7%)	41 (55.4%)	18 (24.3%)	10 (13.5%)	74
Full Code test (area and CPS Direct)	4 (6.9%)	34 (58.6%)	12 (20.7%)	8 (1.4%)	58
Threshold test (area)	0	5	4	1	10
Threshold test (CPS Direct)	1	2	2	1	6

- 3.9 In June and July of last year, after some inefficiencies in police and CPS systems were identified, a joint review of statutory charging, commissioned by the Local Criminal Justice Board, was undertaken. The comprehensive review, which included consideration of charging decisions and observations in charging centres, came up with a number of recommendations to improve systems and communications, as well as the knowledge and skills base of duty prosecutors and police gatekeepers. This, in turn, led to a training brief to address perceived areas of weakness. Training (both sole and joint) was delivered to all duty prosecutors and gatekeepers in November and December 2008.
- 3.10 The review also led to the introduction of a template for MG3s to improve the quality of charging decisions, as well as the production of a comprehensive charging manual. The manual incorporates guidance on charging for common offences, the problems that arise, and how these

can be overcome, together with an evidence checklist and relevant issues from the charging training brief. The manual is a valuable tool for prosecutors to assist them in decision-making and improve the quality of MG3s and amounts to **good practice**.

- 3.11 The majority of files within our sample related to proceedings that commenced before the changes following the charging review were implemented. As a result, we looked at 15 current cases (five from each unit) whilst on site to make some assessment of the effectiveness of the new processes. The files showed a greater consistency of approach in the detail and quality of MG3s. We report in greater detail on this aspect at paragraph 4.14.
- 3.12 In cases which are likely to be dealt with summarily under the Simple, Speedy, Summary Justice (CJSSS) initiative, duty prosecutors are also required to consider unused material and record their decision on the relevant schedules (MG6C for non-sensitive and MG6D for sensitive material). This requirement too was introduced in the latter part of 2008 and consequently evidence of compliance was not always apparent on the files we looked at. However, our on-site file examination confirmed that in each case where it was appropriate, the unused material schedules had been reviewed and endorsed by the duty prosecutor at the time of the charging decision.
- 3.13 Area performance in respect of confiscation of assets under the Proceeds of Crime Act is improving and is discussed in greater detail at paragraphs 5.19 – 5.21. However, duty prosecutors have been reminded of the importance of identifying appropriate cases at pre-charge stage, particularly those likely to be dealt with in the magistrates' court. There were no cases within our file sample which gave rise to consideration of confiscation of assets.

Realising the benefits of pre-charge decision-making

- 3.14 The area is realising all of the expected benefits of the charging scheme. The most recent key outcomes for 2008-09 against which the CPS measures performance are shown in the table below.

	National target March 2009	National performance 2008-09	Area performance 2008-09
<i>Magistrates' courts' cases</i>			
Discontinuance rate	13%	13.1%	13.0%
Guilty plea rate	70%	74.4%	73.3%
Attrition rate	23%	19.2%	18.4%
<i>Crown Court cases</i>			
Discontinuance rate	11%	11.7%	9.8%
Guilty plea rate	70%	72.9%	73.3%
Attrition rate	23%	19.4%	18.0%

- 3.15 Area performance is better than, or equal to, the national target in each of the six aspects, and is better than the national average in all but the magistrates' courts guilty plea rate. In each instance, current performance shows a significant improvement on the position at the 2007 OPA.

Operation of the charging scheme

- 3.16 Duty prosecutors provide face to face pre-charge advice at three charging centres (each based in a police station) between 9am and 5pm Monday to Friday each week. The centre at Euston Street is attended by two duty prosecutors; Beaumont Leys and Loughborough each are staffed by one prosecutor. In addition, a duty prosecutor from the trials unit attends Keyham Lane charging centre between 1pm and 5pm each day. Each centre holds a specialist surgery one day each week for rape and child abuse cases.
- 3.17 Consultations are generally arranged by appointments made through the police gatekeepers. The system has sufficient flexibility to allow urgent consultations in custody cases. Because of the volume and serious nature of the casework at Euston Street, available appointments are fewer to cater for the higher numbers of custody cases.
- 3.18 Decisions are made by prosecutors who have received the national Proactive Prosecutor training. Observations carried out by inspectors confirmed that prosecutors were appropriately experienced, quick in understanding the case issues and proactive in probing the strengths and weaknesses of evidence.
- 3.19 The area collects and analyses data from each centre about the volume and complexity of cases referred for decision. This is used to ensure that the level of coverage provided is appropriate, as well as to identify any trends in cases and decisions.
- 3.20 Most advice is given in face to face consultations but a recent review of arrangements has resulted in a more flexible approach, allowing cases which are resubmitted with the results of further enquiries to be done so in written advice files. Telephone or written advice can also be provided in some straightforward summary cases. There are arrangements which allow the more complex and more sensitive and specialist cases to be dealt with in the CPS office by appropriately experienced prosecutors. This will usually involve a conference with the officer at some stage. The arrangements had initially led to delays and backlogs in the provision of advice but area action to tackle the problem has ensured that decisions have been timely since October 2008.
- 3.21 Police gatekeepers are effective in ensuring that only appropriate cases are referred for decision. In 2008-09, 21.9% of cases referred resulted in a decision to take no further action. This compares favourably with the national average of 26.5%. The gatekeepers also ensure that cases are assigned a unique reference number and are signed off by a supervising officer. Recent joint training on the Director's Guidance and file building has tightened the arrangements. The police and CPS also monitor the number of visits by officers to the duty prosecutor before a decision is made, whether to charge or to take no further action, to identify poor decision making either by gatekeepers or duty prosecutors. In the same year (2008-09), only 12.9% of cases required a second consultation; 4.1% required three or more consultations.
- 3.22 The gatekeepers monitor all action plans in MG3s to ensure that they are followed up. CPS unit heads dip sample cases for the same reason.
- 3.23 The CPS and the police monitor the operation of the charging scheme strategically through Prosecution Team Performance Management meetings (PTPM) as well as at the less formal Basic Command Unit (BCU) operational level through police gatekeepers and duty prosecutors. Monitoring takes a number of forms and covers a range of aspects, such as the quality of police files, inappropriate referrals and timeliness of response to action plans as well as the quality of decisions.

3.24 The joint charging review led to a co-operative approach in improving processes and, ultimately, joint performance in respect of file quality and decision-making. Police gatekeepers monitor the quality of police submissions and CPS monitors the quality of decisions through casework quality assurance scheme (CQA) and the adverse case reporting system.

CPS Direct

3.25 The area has a very good relationship with CPS Direct (CPSD). We have commented at the beginning of this chapter that four of the decisions in our file sample that did not accord with the evidential stage of the Code were CPSD decisions. Where an area lawyer reviewing a CPSD advice disagrees with the decision, feedback is provided to the CPSD liaison manager who will discuss the case with the CPSD lawyer. Data maintained by CPSD on a range of issues is shared with the area. This includes comparisons of area and CPSD guilty plea, discontinuance and attrition rates.

Use of the case management system – Compass CMS

3.26 CMS usage is generally good, with pre-charge decisions recorded electronically, and the appropriate monitoring codes are entered.

4	DECISION-MAKING, PREPARATION AND PROGRESSION IN MAGISTRATES' COURTS' CASES	OPA 2007	AI 2009	Direction of travel
		Poor	Fair	Improved

Quality of case decisions and continuing review

4.1 We examined 43 magistrates' courts case files from the area and our findings are set out in the following table.

Magistrates' courts' and youth court casework	Area performance
<i>Case preparation</i>	
Cases ready to proceed at first hearing	82.5%
Timely completion of actions between plea and trial	78.8%
<i>Level of charge</i>	
Cases that proceeded to trial or guilty plea on the correct level of charge	93.0%
<i>Discontinuance</i>	
Discontinuance was timely	100.0%
Decisions to discontinue complying with the evidential stage of the Code test	100.0%
Decisions to discontinue complying with the public interest stage of the Code test	100.0%
<i>Summary trial</i>	
Decisions to proceed to trial complying with the evidential test	95.4%
Decisions to proceed to trial complying with the public interest test	100.0%
Cases with summary trial review properly recorded	84.0%

4.2 The application of the evidential stage of the full Code test accorded with the Code in 41 out of 43 cases (95.4%). One of the two remaining cases related to a domestic violence incident which was in fact discontinued between the decision to proceed to trial and the trial itself, following a further review of the case. The other case was the subject of a pre-charge decision by CPS Direct (CPSD) which was dismissed at the end of the prosecution case and a more robust review should have led to its earlier discontinuance. The public interest stage accorded with the Code in all cases.

4.3 We have commented in the previous chapter about perceptions of undercharging in some assault cases which have been recognised and addressed by the area. In our file sample, 40 out of the 43 cases (93%) proceeded to trial or guilty plea on the correct level of charge.

Outcomes in the magistrates' courts

Case outcomes in the magistrates' courts	Area performance OPA 2007	National performance 2008-09	Area performance 2008-09
Discontinuance and bindovers	14.4%	8.7%	9.8%
No case to answer	0.2%	0.2%	0.2%
Dismissed after trial	1.7%	2.0%	2.0%
Discharged committals	0.03%	0.2%	0.3%
Warrants	3.0%	1.6%	1.6%
Overall conviction rate	80.7%	87.3%	86.1%

4.4 The above table shows key outcomes in magistrates' courts cases. The overall conviction rate is below the national average and falls into the lowest quartile of all CPS area performance, but represents a significant improvement on the position at the time of the last OPA. The discontinuance rate is also worse than the national average but, again, is much better than the 14.4% at the time of the OPA. Improvements in the discontinuance and conviction rates reflect the efforts which have been made in the area, through training and increasing awareness in team meetings, to introduce a more proactive approach to reviewing cases, and generally present an encouraging picture.

Discontinuances in the magistrates' courts

4.5 We examined ten magistrates' courts cases in which the proceedings were discontinued and which had been the subject of a pre-charge decision. The decision to discontinue was correct in each case. The original charging decision had been made by CPSD in four of the cases. In six cases (including two of the CPSD cases), there had been a material change of circumstances since the charging decision which led to the discontinuance. Discontinuance was timely in each case, following a full file review.

4.6 All cases in which it is proposed to discontinue the proceedings, and which have been the subject of a pre-charge decision, are referred to the unit head for approval to ensure a consistent approach, and that appropriate lessons are learned. They are monitored through the CQA scheme and each unit's adverse outcome reports prepared by the unit heads. These identify the issues for learning points and form the basis of feedback for the charging lawyer. Reports are also prepared for CPSD in similar fashion.

Discharged committals

4.7 There has been a significant increase in the rate of discharged committals since the OPA. In the year ending March 2009, there were 46 cases representing 0.3% of the area's caseload compared with 0.03% at the time of the OPA.

4.8 The increase is of concern to managers who have looked into the reasons behind it. Some of the increase is believed to be the result of a reduction in the standard of Crown Court case preparation by the police following a diversion of resources to magistrates' courts cases as part of Criminal Justice: Simple, Speedy, Summary (CJSSS) initiative implementation. Incorrect finalisations in previous years are also thought to have hidden the scale of the problem. The area, however, has an effective system to ensure that discharged committals are reviewed as a matter of priority so that early remedial action can be taken and proceedings reinstated in appropriate cases.

Case preparation and progression

- 4.9 Both the CJSSS initiative and the optimum business model (OBM) have been fully implemented within the area since October 2008. The area's proactive case progression team (PCPT) comprises a lawyer, associate prosecutor and an administrator. They work together in a 'pod'. The pod is managed by the case progression manager who allocates cases to the pod lawyer for review before the first hearing.
- 4.10 When a file is received in the pod, a check is made to see if there are any cases already in the system involving the same defendant. The police will usually provide this information in the case papers. The pod lawyer retrieves any linked case, or checks it on CMS, and will decide how they should proceed.
- 4.11 The pod system has been a significant factor in improving case progression, particularly in respect of the early stages of review and case preparation. Both the County and the City CJUs have effective systems which ensure that review, case preparation and other file actions, such as replying to correspondence, are handled promptly. It is specific area policy to ensure that the pods should be fully resourced on a daily basis and staff are not assigned to cover shortfalls elsewhere. This has been particularly effective in strengthening area performance and improving case outcomes.
- 4.12 If the reviewing lawyer or associate prosecutor is satisfied that charging procedure complies with the Director's Guidance and there is sufficient evidence to proceed, the administrator prepares a disclosure pack which is forwarded to the court and the defence in accordance with CJSSS timescales. Cases which do not comply with the criteria in the Director's Guidance are either discontinued if there is insufficient evidence or reviewed by the lawyer on a full Code test basis where there is a realistic prospect of conviction.
- 4.13 Contested cases are referred to the case progression manager after the first hearing for allocation. If the case is sensitive or complex, or the defendant is in custody, it is allocated to a specific lawyer. All other cases are referred to the pod. The case progression manager monitors progress to ensure that the upgraded file is received on time.
- 4.14 The upgraded file is reviewed by the lawyer for trial. In our file sample, 34 out of 38 relevant cases (88.5%) showed evidence of a full file review. However, the review was often no more than a restatement of the initial charging advice with nothing other than the date of review to distinguish it and nothing to suggest that further consideration had been given to the case.
- 4.15 Lawyers are also expected to carry out ad hoc reviews as circumstances arise, such as receipt of further evidence, or witness issues which may impact on how the case is presented. There were 22 cases in the file sample in which circumstances gave rise to the need for such action. Reviews were recorded in 21 (95.5%).

- 4.16 The recent implementation of PROGRESS in the area has assisted all court users in progressing cases and checking to ensure that actions are completed. Implementation has been particularly successful in Leicestershire and Rutland, so much so that the work undertaken in the area is being used as a model for the national roll-out. PROGRESS is a case management programme which records orders and directions in individual cases and allows the prosecution, defence and the court to monitor progress. Its use is purely voluntary as far as the defence are concerned. However, most of the defence solicitors in the area have signed up to the system, thus maximising its value and effectiveness. The fact that case progress can be checked at a glance has cut down drastically on the number of time-consuming telephone enquiries.
- 4.17 Implementation of the system has also encouraged the holding of weekly case progression meetings between the CPS and the court case progression managers. At the meetings, case progression managers look two weeks in advance at trials listed for more than three hours. They consider whether the cases are trial ready in terms of evidence and witnesses. In addition, there is informal contact by email. The meetings are relatively recent but have had some effect in identifying trials which are not likely to proceed, allowing early applications to vacate.
- 4.18 Most of the files within our file sample related to proceedings commenced before implementation of CJSSS and OBM within the area. Whilst on site we looked at a further 15 trial files selected equally from the two CJUs and the TU to assess whether these more recent initiatives had had any positive impact on case progression. We observed a greater consistency in the standard and detail of MG3s; and that pleas were entered by defendants at the first hearing and, in the case of not guilty pleas, proceedings were adjourned straight to a trial date. Files showed that witnesses were being warned promptly and that lawyers were proactive in dealing with issues such as special measures applications and bad character notices.

Effective, ineffective and cracked trials

- 4.19 There is a shared target to reduce the rate of ineffective trials. These adversely affect victims and witnesses especially if they have attended court, and delay the conclusion of the individual cases. We consider it important to raise the rate of effective trials and reduce the rate of cracked trials.
- 4.20 Area performance in trial effectiveness shows an overall trend of improvement since the OPA, although the table below shows that there is still some way to go.

	Area performance OPA 2007	National performance 2008-09	Area performance 2008-09
Effective trial rate	33.8%	43.4%	38.8%
Cracked trial rate	45.3%	38.0%	42.1%
Ineffective trial rate	20.9%	18.6%	19.2%
Vacated trial rate	6.0%	21.5%	12.6%

- 4.21 The effective trial rate is worse than the national average, but is much better than the position at the time of the OPA. The ineffective trial rate has also improved but it is still higher than the national average. The principal reasons are lack of court time and non-attendance of witnesses (mainly, though not exclusively, prosecution witnesses). The cracked trial rate at 42.1% is an improvement on the rate at the time of the OPA but, again, is worse than the national average of 38%. The main reason for cracked trials is late offers of plea by the defendant.

- 4.22 In contrast with the trends highlighted above, the vacated trial rate has increased over the last two years, although it is significantly less than the national average. Part of the problem relates to listing issues which the CPS and HM Court Service are jointly addressing. However, the increase also reflects the more effective case progression monitoring which leads to earlier identification of cases which are not ready to proceed.
- 4.23 There were three cracked trials in our file sample, each of which resulted in a successful outcome. The defendant pleaded guilty to all charges in two cases and to the majority of charges in the third case.

Youth cases

- 4.24 The CPS, together with other criminal justice agencies has taken effective steps to reduce the time taken to deal with persistent young offenders (PYO) between arrest and sentence. At the time of the OPA this stood at 98 days against the Government's target of 71 days. The cross-agency PYO champions group looked at reasons and trends and took appropriate action. This has resulted in a significant improvement in performance.

Overall persistent young offender performance (arrest to sentence)

National target³	National performance (3 month rolling average to December 2008)	Area performance (3 month rolling average to December 2008)
71 days	63 days	50 days

Use of the case management system – Compass CMS

- 4.25 The OPA reported an improvement in CMS usage since the previous area effectiveness inspection in April 2007 and this has continued. Staff record all key tasks and records of telephone discussions with the police and the defence are entered. In our file examination we considered that CMS usage was excellent in 2.3% of cases, good in 81.4% and fair in 16.3%.

³ This target ceased to exist at the end of December 2008.

5	DECISION-MAKING, PREPARATION AND PROGRESSION IN CROWN COURT CASES	OPA 2007	AI 2009	Direction of travel
		Fair	Fair	Improved

The quality of case decisions and continuing review

5.1 We examined 37 Crown Court case files from the area and our findings are set out in the following table.

Crown Court casework	Area performance
Decisions to proceed at committal or service of papers in accordance with the evidential stage of the Code test	97.3%
Decisions to proceed at committal or service of papers in accordance with the public interest stage of the Code test	100.0%
Indictments that were appropriate and did not require amendment	91.9%
Cases where prosecutor took action to progress case at PCMH	88.2%
Cases where there was timely compliance with PCMH directions	76.7%
Applications made and served within time limits	66.7%
Timely completion of actions and compliance with directions between PCMH and trial date	77.8%
Actions carried out by the correct level of prosecutor	91.9%
Cases where there was no continuity of prosecutor	5.4%
Ineffective trials that could have been avoided by prosecution action	0.0% (0 out of 3 cases)
Adverse outcomes that could have been avoided by better case preparation	50.0% (1 out of 2 cases)

5.2 The application of the evidential stage of the full Code test at either the committal stage or service of the prosecution case accorded with the Code in 36 out of 37 cases (97.3%). The public interest test was met in all cases. Full file reviews were endorsed in 35 out of 37 cases (94.6%); this was better than the magistrates' courts files (89.5%).

5.3 The charges selected at committal were correct in 24 out of 25 relevant cases (96%) and the cases proceeded to Crown Court trial on the most appropriate charges in 25 out of 29 relevant cases (89.2%). There were seven cases where pleas were accepted and the basis of acceptance of the plea was appropriate and realistic in six cases.

5.4 The area has an established protocol for the referral of cases to the group complex casework unit (CCU); this is working well, particularly with the specialist police teams. There is a good relationship due in part to the fact that the once special casework lawyer for the area is now based in the unit. There has only been a limited number of cases referred by the area at the discretion of the Chief Crown Prosecutor. All were appropriate. The CCU produces a newsletter and a legal

bulletin for circulation to the group. The head of the CCU told us that area lawyers are keen to engage with the CCU; there was good dialogue and at the request for further information the unit provided training to area lawyers on letters of request. It was too early to tell at the time of our inspection whether this has led to an improvement in performance in this aspect of work.

Outcomes in the Crown Court

- 5.5 The area's overall conviction rate in the Crown Court is 82.8%, which is better than the national performance of 80.8% and significantly better than 75.1% at the time of the OPA. The key outcomes are shown in the following table.

Case outcomes in the Crown Court	Area performance OPA 2007	National performance 2008-09	Area performance 2008-09
Judge ordered acquittals	18.7%	11.7%	12.2%
Judge directed acquittals	0.7%	1.0%	0.7%
Acquittals after trial	4.5%	5.5%	3.5%
Warrants	1.0%	1.1%	0.8%
Overall conviction rate	75.1%	80.8%	82.8%

- 5.6 The trends in performance improvement in the Crown Court are strong. In the first quarter of 2008-09 the rate of unsuccessful outcomes had been the worst in the country but by the end of the year performance was well above national average.

Adverse cases: judge ordered acquittals and judge directed acquittals

- 5.7 We examined twelve cases where there had been judge ordered acquittals; in eight cases there was a material change in the evidential strength or public interest since the pre-charge decision. In four cases (33.3%) the decision to discontinue was not timely and in three cases (25%) the adverse outcome could have been avoided by better case preparation. We examined two judge directed acquittals, although the outcome was not foreseeable in either of these cases at the start of the trial, one could have been avoided by better case preparation.
- 5.8 Adverse outcome reports met the required standard in only three of the fourteen cases; in the remainder of the cases there was no report with the case papers or on the case management system, or the pro-forma document had only been completed by the caseworker at court. It is clear that the unit head analyses each adverse outcome, in addition to other quality assurance checks of the file and a full report is compiled on each case; however, this is not necessarily informed by the reviewing lawyer on the case and individual reports are not kept with the relevant files. The unit head reports are combined to produce a monthly summary, feedback is given to individual lawyers and learning points disseminated to the unit. The process is sound but could be further developed by wider dissemination of learning points across the area particularly to the duty prosecutors at the charging centres. This should encompass all learning points such as amendment of charges and case outcomes to inform future charging decisions and enhance understanding of Crown Court practice (see paragraph 11.6 - aspect for improvement). The audit trail of adverse reporting also needs development.

Case preparation and progression

5.9 The management, preparation and progression of Crown Court casework is variable. In the file sample there were examples of pro-active case management by both lawyers and caseworkers; however, this was not always the case. Some could have done more to work with the police to build stronger cases by identifying at an early stage what more was required to ensure a successful outcome. The pro-activity of case management was good in eighteen cases, fair in seventeen and poor in two cases and all aspects of case preparation were timely in two thirds of the cases (24 out of 37, 64.9%). This shows that there is room for improvement, and was also apparent in live files examined whilst on-site.

RECOMMENDATION

Area managers take the necessary action to ensure case progression in Crown Court cases is improved

- 5.10 The majority of committal preparation and preparation of papers for service of the prosecution case is undertaken by the lawyers in the trials unit. The high level of caseworker support at court limits the amount of time available for committal preparation by caseworkers. The trials unit has set a target of one committal per week for each caseworker in order to release lawyer time for other duties; this is not always met. There is evidence that this is resulting in some delays in the process and makes case progression reactive rather than pro-active.
- 5.11 The trials unit has a case progression manager who, in conjunction with the Crown Court case progression officer, moves cases forward to trial. The PROGRESS (case management system), which has been implemented successfully in the area, is used to: monitor compliance of orders by all parties; trial readiness checks are undertaken on the files, and weekly case progression meetings are held with the court to monitor case progress on each forthcoming trial. Although the systems and processes are in place the progression of cases in the unit needs further development. The file examination highlighted in a quarter of cases that directions had not been complied with, nor was progress timely, although in 94.6% of cases there was continuity of prosecutor and in 91.9% action was carried out by the correct level of prosecutor.
- 5.12 The charges selected at committal or the service of the prosecution case were correct in 34 out of 37 cases (91.9%). Where there was a subsequent amendment, it was amended correctly in seven out of nine cases, only three of these were not timely. This performance was better than we observed at court where a significant number of indictments were subject to amendment at court. Most of the issues related to form rather than substance.
- 5.13 The quality of instructions to the advocate needs improvement, a matter the area is aware of. In only 16 out of 37 cases was the quality of instructions good; in 17 it was fair. There was one case where the instructions were excellent, but in contrast there were three cases where they were poor. In a number of cases there was evidence that information was 'cut and pasted' from the initial review or pre-charge decision without any editing. Although the level of analysis was good in most instances, others did not reflect any further consideration of the issues since the initial charging decision and many were presented in a less than professional manner.

RECOMMENDATION

Area managers ensure the quality of instructions to advocates is improved

- 5.14 CPS crown advocates (CAs) conduct a significant number of plea and case management hearing (PCMH) cases which are then passed to an advocate in the area or to counsel to conduct the trial; CAs outside the cadre aim to achieve a jury trial each month to develop their skills but this is not easily achievable in view of the high rates of ineffective and cracked trials. All crown advocates appear to have sufficient preparation time in advance of a trial.

Effective, ineffective and cracked trials

- 5.15 There is a shared target with criminal justice partners to reduce the level of ineffective trials, which can adversely affect victims and witnesses if they have attended court, delay the conclusion of individual cases and waste available court time.

	Area performance OPA 2007	National performance 2008-09	Area performance 2008-09
Effective trial rate	38.7%	47.1%	39.7%
Cracked trial rate	46.6%	40.8%	44.1%
Ineffective trial rate	14.7%	12.1%	16.2%

- 5.16 Trial effectiveness is not good and is significantly lower than the national average although there has been a slight improvement since the last OPA. The total number of trials for the period is not great, at 485, which can impact on the figures when displayed in percentage terms, but current listing arrangements are contributing more significantly to the high rates. There are cases which do not go ahead due to witness difficulties which can be attributable to the CPS, but of similar impact is the lack of court time. During the three months to January 2009, of the 125 trials listed 22 were ineffective; five were attributed to the CPS including three where the witness was absent, six to the witness care unit, six to the court, where cases were not reached and five to the defence.
- 5.17 A partnership approach to addressing the issue of listing has recently been invigorated by the area, and meetings with the Resident Judge are planned. The unit head is drafting a paper to consider the implications of extending the warned list period and producing a reserve list as adopted in an adjoining area. It is important that the area bears in mind how any change could impact victims and witnesses. In particular careful consideration will need to be given to how any change may affect trials that involve sensitive cases where victims may be vulnerable in some way. There are already regular meetings between the Resident Judge, the court, the trials unit head and case progression manager to consider cracked and ineffective trials, where lessons are learned.

Appeals

5.18 Appeals against conviction or sentence and committals for sentence are handled appropriately and many are prosecuted in-house by the crown advocates based in the trials unit. Lawyers in the unit are aware of the need to refer cases to the unit head promptly where it may be appropriate to send the case to the Attorney General to consider a reference to the Court of Appeal in relation to an unduly lenient sentence. During the last twelve months there were two cases; one was not referred by the Attorney General and the other is awaiting a date in the Court of Appeal.

Asset recovery (proceeds of crime)

5.19 Duty prosecutors should consider asset recovery with the police at the charging stage. It is then for the police to investigate the defendant's financial position, thereafter, the CPS prepares and handles applications for the confiscation of the proceeds of crime. Generally the CPS has limited ability to influence enforcement and asset recovery, although in Leicestershire the proceeds of crime (POCA) team focuses heavily on enforcement and ensures that the CPS is the lead enforcement agency in all confiscation cases.

5.20 The area performance in relation to confiscation and restraint is very good, systems are in place to ensure suitable cases are identified and their progress is tracked. There is a team approach within the area and excellent support is provided; the small POCA team deal with the majority of cases in the Crown Court and magistrates' courts and there is a lead for cases with a POCA element and a lead for the enforcement aspects of casework. There are now twice yearly meetings across the five areas in the group; the inaugural meeting was organised by the area POCA lead to share best practice across the group.

5.21 The outcomes against targets for 2008-09 were very good with 108 confiscation orders made against the target of 88, to the value of £2.74m against the target of £1.78m, and 18 restraint orders against a target of 15. Enforcement collection also exceeded target by £331,000.

Use of case management system – Compass CMS

5.22 As outlined in paragraphs 3.26 and 4.25 there is good use of the case management system (CMS) to record actions, maintaining a full audit trail throughout the life of the case, including many examples of telephone calls made and received recorded on the system. In particular, there is considerable evidence of the high level of contact, by staff outside the witness care unit, with witnesses to keep them informed of case progress. CMS usage was assessed as good or excellent in 75.7% of cases within the sample (28 out of 37) and usage was assessed as fair in the remaining cases (nine).

Strength

The use of the case management system to record actions

5.23 There is room for improvement in the finalisation of cases on CMS; there were eight cases (21.6%) in the file sample that were finalised incorrectly.

6 THE PROSECUTION OF CASES AT COURT	OPA 2007	AI 2009	Direction of travel
	Fair	Good	Improved

- 6.1 The CPS has set standards for its advocates, internal and external. These national standards of advocacy were updated in autumn 2008 and contain standards, guidance and prompts. The standards dictate that prosecution advocates act, and are seen to act, in the public interest, independently of all other interests, fairly, fearlessly, and in a manner that supports a transparent system that brings offenders to justice, respects the rights of the defendant and protects the innocent. We assess advocates against these standards, bearing in mind that the court sessions will vary from trials to remand courts and bail applications to pleas of guilty.
- 6.2 Observation at court indicated that the area deploys its prosecutors appropriately. There were no instances where the skills and experience of the prosecutor did not match the complexity of the case. Our file examination confirmed this view; in 91.9% of Crown Court cases action was carried out by the correct level of prosecutor. Additionally, the area has effective processes in place to monitor and select counsel on the basis of their experience and ability. Specialist cases and other cases with particular sensitivities are prosecuted by counsel who have the requisite experience and skill.

The standard of advocacy

- 6.3 We observed advocates in different courts prosecuting contested and non-contested cases. Our findings are set out in the table below.

Advocacy standards

	Level	Number	Number	Number	Number
		CPS advocates/ associate prosecutors in the magistrates' courts	Counsel/ solicitor agents in the magistrates' courts	Crown advocates and other CPS advocates in the Crown Court	Counsel in the Crown Court
Assessed as	1	-	-	-	-
above normal	2	1	-	-	1
requirements					
Against CPS	3+	4	1	1	1
national standards	3	5	-	2	6
of advocacy	3-	1	-	-	2
And those	4	-	-	1	-
assessed as	5	-	-	-	-
less than					
competent					

Assessment:

1 = Outstanding; 2 = Very good, above average in many respects; 3+ = Above average in some respects

3 = Competent in all respects; 3- = Technically competent, but lacking in presence or lacklustre

4 = Less than competent in many respects; 5 = Very poor indeed, entirely unacceptable

- 6.4 We assessed 26 advocates at all grades in both the magistrates' courts and the Crown Court. The chart above shows the variable range in the quality of the advocacy we observed. Whilst the majority was at least competent or above some advocates, both CPS and counsel, were assessed as below average in some respects.
- 6.5 Advocates in the magistrates' court were competent. There is an effective system of gathering feedback from the District Judges and senior clerks which is used to identify training needs and any necessary monitoring for appraisal purposes. Feedback in respect of associate prosecutors was positive, they are competent and well prepared. Feedback on crown prosecutors was more varied; weak performers have been identified to the unit heads. Very good feedback was received about the standards of specialists prosecuting cases and advocates in the Specialist Domestic Violence Courts, already established at Loughborough and recently introduced in Leicester. There were positive comments about performance and the quality of advocacy in the youth court. Prosecutors in the magistrates' court are rarely asked to assist on sentencing issues but our observations indicated that they have a knowledge of sentencing principles and guidelines which they use when addressing the court on mode of trial. Feedback in respect of crown advocates suggested there was variable performance.
- 6.6 The area has invested in improving advocacy performance; a series of advocacy master-classes have taken place, focusing on trial preparation, advocacy, and the presentation of bail applications. This is good practice. However, this needs to be embedded by ensuring that the opportunities for practising trial advocacy skills are made available.
- 6.7 In addition, and to complement the national crown advocate training, area training has been provided by counsel who sits as a Recorder in the Crown Court and also counsel from London chambers. The area is also devising some further training that can be delivered locally. All prosecutors have been trained in the new sentencing guidelines; this has resulted in positive feedback in the magistrates' courts.
- 6.8 Some advocacy monitoring has taken place. The area has assessed all associate prosecutors and found them to be of a satisfactory standard, although it was not clear whether there had been any learning points or specific action plans identified from the monitoring and whether there has been any follow up by line managers. A rolling programme of monitoring has started in the Crown Court; assessments are undertaken by the senior crown advocate and six had been completed at the time of our visit. The monitoring is a positive step to assuring advocacy in the Crown Court but the assessments need to be robust and action plans for improvement produced when necessary. In one case inspectors would have expected to see a series of formal re-assessments in view of the findings in the initial assessment to support the improvement strategy that had been developed with the line manager.

Progressing cases at court

- 6.9 Prosecutors in the magistrates' court usually have sufficient time to prepare their courts. Although they sometimes prosecute courts back-to-back, court lists are prepared some days in advance, and with proper forward planning there is an opportunity to prepare effectively in advance. Crown advocates in many instances prosecute their own cases in the Crown Court, thus ensuring that they have a complete knowledge of the case so they can address issues that arise.

- 6.10 Both the file examination and observations highlighted that area advocates are generally able to ensure that cases proceed effectively at each hearing. In the magistrates' court 82.5% of cases progressed at the first hearing. In all cases we observed advocates arrived at court in good time, and they were able to discuss issues with the defence and court legal advisor before the start of court.
- 6.11 Progression of cases in the magistrates' courts is good, assisted by early delivery of advance information to the court and the impact of criminal justice: simple, speedy, summary (CJSSS) and the 'pod'. The data available for CJSSS as at December 2008 showed that performance is generally better than target.

	Target	Adult	Youth
Guilty plea disposal rate at first hearing	60%	59%	61%
Contested cases finalised in 2 hearings or less	70%	77%	76%
Contested cases finalised in 3 hearings or less	80%	90%	78%
Average number of days from first hearing to finalisation	42	38.1	25.7

- 6.12 In the Crown Court a system has recently been introduced, with the agreement of the Resident Judge, whereby crown advocates prosecute their own cases at the plea and case management hearing instead of attending court on set dates to prosecute a list of cases. It is accepted that this may lead to an advocate having to appear in more than one court, when cases cannot be listed in a single court, but should ensure that advocates are more accountable, better prepared and able to progress cases with less duplication of work. The area is monitoring the effectiveness of this system - it may result in more advocates being needed at court to prosecute a smaller number of cases on each occasion, which in turn may stretch the resources at the office in terms of case management.
- 6.13 The high level of caseworker support at court facilitates progression of cases at court. However, in chapter 3 we caution about the impact this can have on case management and progression out of court.
- 6.14 A duty prosecutor scheme is in place for the Crown Court to ensure that crown advocates are not required to act as reviewing lawyer whilst presenting a number of cases, and the trials unit head can usually be contacted for a decision. In the magistrates' courts a decision-maker is available on a dedicated telephone to give instruction to associate prosecutors or agents at court.
- 6.15 The level of compliance with the Prosecutor's Pledge, Victims' Code of Practice and Witness Charter is very good. In the magistrates' courts feedback was generally very positive. Prosecutors take their obligations seriously and introduce themselves to victims and witnesses at court, although agents are not always as effective as in-house lawyers and on occasions the court does not grant sufficient time to enable the task to be undertaken thoroughly. We observed advocates in the Crown Court introducing themselves to victims and witnesses at court, and in the two cases in the file sample that cracked when listed for trial the victim was consulted in both.

Court endorsements

6.16 The quality of file endorsements was generally good as shown in the table below. The overall quality was assessed as being adequate in 93.8% of cases, (fair and better in 75 out of 80 cases). Endorsements seen in Crown Court cases were generally good as was the subsequent recording of actions on the case management system. In the magistrates' courts the standard was slightly lower, where a higher proportion of cases were of poor quality, but an equal number were also excellent.

	Excellent	Good	Fair	Poor
Magistrates' courts file endorsements	9.3% (4)	60.5% (26)	20.9% (9)	9.3% (4)
Crown Court file endorsements	- (0)	62.2% (23)	35.1% (13)	2.7% (1)
Magistrates' courts CMS recording	2.3% (1)	81.4% (35)	16.3% (7)	- (0)
Crown Court CMS recording	5.4% (2)	70.3% (26)	24.3% (9)	- (0)

6.17 The unit heads undertake file checks, casework quality assurance checks and adverse case reporting, all of which provide an assessment of the general file housekeeping; this is supplemented by guidance and expectations that have been circulated to all staff.

7	SERIOUS VIOLENT AND SEXUAL OFFENCES AND HATE CRIME	OPA 2007	AI 2009	Direction of travel
		Good	Good	Stable

- 7.1 Serious violence includes causing grievous bodily harm and wounding, offences using weapons, fatal road traffic offences, homicide, rape, child abuse and domestic violence. Hate crime includes racially aggravated and homophobic offences, elder abuse and disability aggravated offences. The CPS is committed to helping make communities safer under Public Service Agreement (PSA) 23 and to bringing offences to justice under Public Service Agreement 24.

Identification and management of sensitive cases

- 7.2 The area was very good at identifying all sensitive and hate crime cases and noting the correct 'flags' on the case management system, and ensuring that domestic violence case files, and those with victims are quickly identifiable. Unit heads check case identification and flagging as part of the casework quality assurance checks. Dip sampling is undertaken by the business managers and files are also examined by area leads or co-ordinators as part of the performance reporting to the Chief Crown Prosecutor (CCP) on a monthly and quarterly basis.

Specialists and experts

- 7.3 The area has co-ordinators and specialists in the relevant specialisms; their roles and responsibilities are clearly defined. Specialists are available to provide advice at the outset, or act as consultants in casework decision-making and case management. All hate crime policy guidance is available in hard copy to the duty prosecutors at the charging centres.
- 7.4 The area has implemented case ownership in the magistrates' court units for specialist cases, for example individual hate crime cases, specific domestic violence cases and all cases where the defendant is in custody. This ensures continuity of case handling when it is required. In the trials unit the cases are invariably handled by appropriate specialists at the outset and overseen by the unit head (who is also a rape specialist).
- 7.5 The co-ordinators undertake a quarterly assessment of all cases within their specialist category and appropriate time is allowed to enable them to do this. The assessment is used to produce a quarterly performance report which is discussed with the CCP and used to direct training and action for improvement, this is good practice. The co-ordinators also liaise with each other, for example, on domestic violence and rape cases as part of the CPS strategy for dealing with cases of violence against women.

The quality of advice and decisions

- 7.6 Cases are identified and generally handled appropriately at the pre-charge stage. Of the 39 relevant sensitive or complex cases in the file sample, the requirements for dealing with them at the pre-charge stage were met in 33 cases (84.6%). In four of the six cases where the requirements were not met, the pre-charge decision was made by CPS Direct (CPSD).
- 7.7 Whilst there is good identification of weaknesses and learning points which are shared by the leads and specialists, and disseminated across the area, the messages are not always received and adopted by all staff to drive improvement from lessons learned. The area needs to ensure this is done more effectively and has plans in place to address how learning points can be communicated in a more effective way.

Aspect for improvement

The dissemination of learning points effectively across the area.

<i>Unsuccessful case outcomes⁴</i>	National target	National Performance 2008-09	Area performance 2008-09
Domestic violence	28.0%	27.8%	28.2%
Hate crime: Combined racist, religious, homophobic and disability	18.0%	18.0%	14.5%
Rape	41.0%	42.3%	56.3%

Homicide

- 7.8 A complex casework schedule is maintained by the trials unit which captures cases involving a homicide as well as other serious crime. It has been agreed with the police that all such cases will be referred to the area at the outset, without the need to use CPSD. In order to facilitate this, prosecutors have made themselves available out of hours to provide advice. All members of the trials unit have dealt with cases involving a homicide and the senior crown advocate has been briefed to act as junior in three ongoing murder cases, allowing for strong continuity of case management.
- 7.9 The area has several homicide cases and we examined two. In one case advice was sought from counsel, manslaughter was charged and the defendant pleaded guilty. In the second case, of the four defendants, two were convicted of murder and two of manslaughter. The decision-making and case management in both cases was sound.

Road traffic cases involving fatalities

- 7.10 All fatal road traffic cases are referred to specialists. This involves using a lead lawyer and ensuring that there is review carried out by a second prosecutor, which is overseen by the Chief Crown Prosecutor (CCP), who will also attend the meeting with the family if her presence is felt to be appropriate. We examined three such cases in the file sample. In each case there was careful consideration, appropriate reference to the CCP and proper discussion with the officers before the decision was made, and the deceased's family was dealt with respectfully.
- 7.11 The area lead has worked hard to agree a protocol of working practices with the specialist unit of the Leicestershire Constabulary; this details the processes and expectations of both parties to improve the effectiveness of case handling whilst putting the family of the deceased and victims of road deaths at the heart of considerations throughout the life of the case. There are regular meetings between the area specialists to provide any legal updates, disseminate good practice and any lessons learned.

⁴ The lower the figure of unsuccessful outcomes the better performance is.

Domestic violence and hate crime

- 7.12 The area has undertaken considerable work, itself and in partnership with others, to improve performance and reduce the proportion of unsuccessful outcomes in domestic violence cases. Performance is now very close to target for 2008-09.
- 7.13 The area identified that the rate of unsuccessful outcomes was adversely affected by the approach of some prosecutors of prioritising the CPS policy above the Code, and emphasising public interest above the evidential test; action was taken to address this and improvements are evident. All lawyers and associate prosecutors have received training on handling domestic violence cases in addition to training on the policy. This ensures that all lawyers are able to advise at the pre-charge stage; the decisions are captured on a specially devised proforma to ensure that relevant issues are captured. All cases involving an allegation of domestic violence must be submitted for pre-charge advice and the handling is now governed by the inter-agency protocol.
- 7.14 We examined 15 cases involving an allegation of domestic violence; the prosecutor considered the availability of enhanced evidence at the pre-charge stage in 13 (86.7%) of the cases. In six out of the seven relevant cases there was compliance with CPS policy when there was a retraction by the witness, and in four of the ten relevant cases the case proceeded against the victim's wishes.
- 7.15 The area has a domestic violence unit which includes associate prosecutors and tries to ensure specialist in-house prosecutors conduct the domestic violence trials in the magistrates' courts; they are not prosecuted by agents. The unit meets every two months to discuss issues including the work of the two Specialist Domestic Violence Courts (SDVCs) in the area, at Loughborough, which is now due for evaluation and more recently established a court at Leicester Magistrates' Court. Although not yet formally evaluated, it is believed that the courts have had a positive impact on performance, with the benefits of improved victim and witness care and establishing good relationships with partners in the criminal justice system and the voluntary sector.
- 7.16 The area works closely with CPS Nottingham as part of the East Midlands Group; joint domestic violence and hate crime scrutiny panels are held which helps inform the approach to casework. There is dissemination of lessons learned but this could be more effective, particularly in relation to domestic violence, and extend to more of the voluntary sector involved in the SDVCs, including information about what and how improvements have been made.
- 7.17 The area leads for racial and religiously aggravated offences and disability hate crime both have a role in monitoring the outcomes of cases and performance, as well as feeding back from the hate crime scrutiny panel. There were five cases within our file sample dealing with racial or religious incidents. In each case an appropriate racially or religiously motivated offence had been charged and the cases were dealt with in full compliance with CPS policy. The proportion of hate crimes cases that have an unsuccessful outcome, at 14.5%, is better than target and national performance.

Rape and serious sexual assault

- 7.18 The proportion of unsuccessful outcomes in offences involving an allegation of rape has risen since 2007 despite extensive work undertaken to improve performance. The area handled 48 cases in 2008-09 of which only 21 resulted in a conviction. This is substantially worse than the national target and national performance in 2008-09.

- 7.19 All rape and child abuse specialists have received training including recent rape and serious sexual offences training which was delivered by the area rape lead. Rape surgeries were established in January 2009; these are used to give advice on specialist cases, they are proving effective and allow for continuity of advice. The area rape lead meets regularly with her counterpart in the police and issues are then disseminated at meetings with the rape specialists. Some positive work has been undertaken with the Forensic Science Service (FSS) Sexual Offences Services, but there are opportunities to involve the FSS more and at an early stage which could improve outcomes, in particular contact at the time of the charging decision and greater liaison throughout the life of the case. Improved links between the FSS and with the officer in the case could also enhance this. Work is continuing within the area to try to improve the proportion of successful outcomes in rape cases. The CCP and trials unit head now have plans in place to review personally the outcomes in all rape cases to see if they can identify any issues which could be used to drive up area performance.
- 7.20 We examined eight cases involving an allegation of rape. In seven (87.5%) of the cases in the file sample the case was handled by a specialist prosecutor throughout the life of the case.
- 7.21 There were four rape cases in the file sample where the pre-charge decision had been made by CPSD, the need for such a referral in the particular cases was questionable, in particular in one case which involved historic child abuse (we discuss CPSD decision-making further in chapter 1). The cases we examined were not recent, due to the time lag from charge to trial and finalisation. The need for the police to refer such cases to CPSD has been replaced by the introduction of the rape surgeries, this has improved confidence in and the quality of the service provided.

Child abuse

- 7.22 We examined eight cases involving an allegation of child abuse, these were all well handled. In three cases where it was relevant the prosecutor viewed the child's video recorded evidence and endorsed this fact on the file enabling the decision-making to be informed at an early stage.
- 7.23 The area also holds child abuse surgeries which are used to give advice on specialist cases. It has been identified that a one-day surgery is not sufficient to enable advice to be given on all cases and as a consequence advice files are also submitted. Consideration is being given to extending this to two days, as adopted in an adjoining area in the group, to ensure all cases can be captured. The third party protocol for disclosure in relevant cases is effective.

Safeguarding children

- 7.24 Action to safeguard children is taking place both at the strategic and operational level. A senior prosecutor attends, when necessary, or receives minutes from the county Local Safeguarding Children Board; this is having a positive effect on relationships and processes. The area child abuse lead has been involved with the serious case review examining cases resulting in serious injury to or the fatality of a child. At the operational level, specialists and co-ordinators are in place to handle the specialist cases and prosecute youth crime. The domestic violence co-ordinator receives copies of minutes from the multi-agency risk assessment committee (MARAC).

8 DISCLOSURE OF UNUSED MATERIAL	OPA 2007	AI 2009	Direction of travel
	Fair	Good	Improved

Decision-making and compliance with the duties of disclosure

8.1 In the last OPA, the area's performance on disclosure was assessed as fair, having declined from the previous assessment of good. The table below compares the findings of this inspection with those in our thematic inspection of disclosure: Disclosure: A thematic review of the duties of disclosure of unused material undertaken by CPS, which was published in May 2008.

	Overall findings in thematic review	Area performance in this inspection
Initial (or primary) disclosure dealt with properly in magistrates' courts' cases	55.0%	82.3%
Continuing (or secondary) disclosure dealt with properly in magistrates' courts' cases	81.8%	90.9%
Initial (or primary) disclosure dealt with properly in Crown Court cases	57.5%	77.8%
Continuing (or secondary) disclosure dealt with properly in Crown Court cases	69.7%	79.3%
Disclosure of sensitive material dealt with properly in magistrates' courts' cases	26.7%	100.0%
Disclosure of sensitive material dealt with properly in Crown Court cases	54.5%	70.6%

8.2 The area has taken steps to improve and strengthen its performance, following the OPA, although there are still some minor inconsistencies which need to be addressed. In addition to the monthly CQA analysis, the area carried out two audits on disclosure in January and July 2008, both of which produced action plans to address the issues identified.

8.3 In October 2008, an external audit was carried out by CPS Headquarters at the request of area managers, which resulted in a number of recommendations to improve performance. Although some of these related to reinforcing actions which should already be done, others were designed to promote a more proactive approach. This was followed up by a further review in February 2009 when improvements were noted.

Initial disclosure

8.4 Initial disclosure means providing the defence with any material which has not previously been disclosed to them and which satisfies the disclosure test. The duty to disclose under the Criminal Procedure and Investigation Act 1986 (CPIA) arises when a not guilty plea has been entered in the magistrates' courts, when the defendant is committed to the Crown Court, or upon service of the prosecution case when the defendant was sent to the Crown Court.

- 8.5 There were 70 cases within our file sample in which the duty to make initial disclosure arose. It was handled correctly in 28 out of 34 cases (82.3%) in the magistrates' courts and 28 out of 36 cases in the Crown Court (77.8%). This performance is significantly better than that represented in the findings of the thematic report.

Continuing disclosure

- 8.6 Prosecutors are aware that the duty of disclosure is a continuing one, although certain events in case progress, such as the receipt of an upgraded file from the police, prompt further consideration of the need to disclose. In particular, prosecutors now consider, immediately upon receipt of a defence statement, whether further material already available should be disclosed. Further consideration is given once a response to the defence statement is received from the police. This was introduced following the review of disclosure procedures by CPS Headquarters.
- 8.7 Continuing disclosure was dealt with correctly in 10 out of 11 magistrates' courts cases (90.9%) and 23 out of 29 Crown Court cases (79.3%).
- 8.8 The proactive approach, which is being encouraged towards disclosure, also applies to third party material, particularly in child abuse cases. In response to the recommendations in HMCPSI's May 2008 thematic report on disclosure, the area and police concluded a Third Party Disclosure Protocol. Police officers in the child protection teams explore the issue of available material with social services and other child protection agencies at the outset and material is usually available for consideration at pre-charge stage, unless the urgency of the case and the need to remand a suspect in custody prevents this. Third party disclosure was handled properly in all ten relevant cases within our file sample. Court observations also provided one positive example of the effective operation of the protocol.

Sensitive material

- 8.9 The police generally submit a schedule of sensitive material in each case. In most instances the schedule confirms that there is no relevant material. In cases where sensitive material is recorded, this is sometimes material which would be non-sensitive if edited, or is material which is not relevant. In these circumstances, the prosecutor should arrange for appropriate items to be edited and transferred to the non-sensitive schedule, or for non-relevant material to be endorsed as such. Area performance in this respect could be improved.
- 8.10 There were 26 cases in our file sample which contained sensitive material schedules. Disclosure was dealt with properly in all nine cases in the magistrates' courts and in 12 of the 17 Crown Court cases (70.6%). In two instances, no sensitive material schedule was provided to CPS in circumstances where it was reasonable to assume that material might exist and the prosecutor did not check the position with the police. In the remaining three cases, lack of proper endorsement or recording created uncertainty about whether material had been considered.
- 8.11 File examination showed a number of instances where schedules were not amended, although edited material was considered.
- 8.12 The area has had no cases recently which have involved the need to apply for material to be withheld on grounds of public interest immunity (PII), although the trials unit (TU) head keeps a log in which applications can be recorded. Awareness of PII issues is maintained by discussion at team meetings.

File housekeeping

8.13 File housekeeping in respect of disclosure documents is generally very good. Disclosure schedules, copies of material and correspondence are stored in a separate folder within or attached to the main file. Copies of relevant correspondence were also found in the main correspondence folder. There were a few files which contained duplicate schedules which appeared to have been considered on different occasions but these did not detract from the general impression of tidiness and order.

Use of the disclosure record sheet (DRS)

8.14 The failure to maintain a clear audit trail of disclosure actions and events was highlighted in the OPA. Most cases examined then (albeit in a smaller sample) contained no DRS. The majority of DRS found on files during this inspection did not represent a complete record of actions. The message to lawyers to complete the DRS has been reinforced in training and during the Headquarters review. There has been some improvement but performance could still be much better.

8.15 The DRS was completed in 34 of the 70 cases (48.6%). The problem was mainly in respect of Crown Court cases with only eight out of 36 cases having a complete record of all disclosure actions. Of the remaining 28 cases, most had some endorsement, although the detail varied. Following the external audit in October 2008, the area introduced a "pre-populated" DRS which has the essential actions and events already noted so that the lawyer can sign and date the relevant action. This can, however, be restrictive in terms of the space allowed to endorse all relevant considerations. Senior managers have acknowledged this and are to consider ways of amending the format whilst maintaining the principle.

RECOMMENDATION

Area managers ensure that the disclosure record sheet is completed in every case so that it provides a complete audit trail of all disclosure actions and events.

Action to improve

8.16 It is apparent from the results of our file examination that improvements to performance on disclosure have been a priority. Area managers have taken note, not only of the issues identified in the OPA, but also the recommendations in the report of our thematic review on disclosure published in May 2008.

8.17 We have referred at paragraphs 8.2 and 8.3 to some of the steps taken. In addition, the area has provided training and guidance to all lawyers and associate prosecutors to bring about a more positive attitude to compliance with its responsibilities in relation to unused material. Particular aspects included lawyer endorsement of schedules, more proactive response to defence statements and recording the disclosure audit trail on a DRS. File examination has highlighted improvement in all of these although a more consistent approach is still required.

8.18 Advanced disclosure training was delivered to lawyers in the trials unit and CJU registry staff, and Crown Court caseworkers have been trained in the basic disclosure provisions. Senior lawyers have also delivered training to officers in the police Major Incident team in September 2008.

- 8.19 The police now provide disclosure schedules and unused material, including third party material, at the pre-charge stage so that it can be considered by the duty prosecutor. In cases which are likely to be dealt with summarily, the duty prosecutor endorses the schedules with the decision on disclosure so that disclosure can be made to the defence before the first hearing.

9 CUSTODY TIME LIMITS	OPA 2007	AI 2009	Direction of travel
	Fair	Fair	Stable

Area custody time limit systems

- 9.1 The area has adopted the national policy and standards for custody time limits (CTLs) and has developed its own desktop instructions. In response to a CTL failure in 2007-08, the previous CTL champion undertook a comprehensive overhaul of the CTL systems and processes after establishing best practice, including visiting a neighbouring area which had received an excellent rating in the last overall performance assessment (OPA). A new CTL champion appointed in October 2008 has updated the desktop guidance and systems in line with the revised national standards, and an action plan and training package have been developed and delivered to all current members of staff.
- 9.2 All staff are clear of their responsibilities. CTL dates are calculated at court by either a lawyer or caseworker. On return of the file, administrative officers have responsibility for entering CTLs on the case management system (CMS); placing a yellow custody sticker clearly on the front of the file and marking this with the appropriate date(s); entering details in the manual CTL diary and raising any discrepancies with the business manager. A second check is made of the CTL date calculation, CMS entry and the CTL diary by the registry manager. Once allocated to a lawyer, it is the lawyer's responsibility to ensure that the CTL date(s) have been correctly calculated, personally diarise the CTL and thereafter ensure due diligence and expedition is given to review dates, receipt of evidence and applications for extension.
- 9.3 Evidence from file examination showed that calculations were correctly assessed in all cases. In the majority of cases seen there was evidence that they were clearly marked up and that endorsements were clear and unambiguous. There was one example where an extension had been granted and this had not been marked on the front of the file.
- 9.4 We examined an additional five live files on site which in the main agreed with the file examination results, and there was again one example where an endorsement of an extension had not been recorded on the file.
- 9.5 Examination of systems and processes on-site identified that there are some housekeeping issues. Whilst all CTLs had been accurately recorded in the CTL diaries, there were different practices in how units finalised diary entries and in how they recorded the results of monthly quality assurance checks. This could lead to confusion amongst staff moving between units. Additionally, the recording of review dates on the front of files varied between the criminal justice units and trial unit; this is contrary to national and area guidance.
- 9.6 Business managers print CMS reports on a daily basis and 14 days prior to the expiry date cases are brought to the personal attention of the lawyer. Business managers undertake a monthly quality assurance check of ten CTL files to check compliance within their own unit. They also undertake a quarterly check of CTLs in another unit within the area. This cross unit check is used to identify and spread good practice, as well as to check for corporacy of processes. Details of all checks are recorded in the team report and circulated to the unit head, ABM and CCP.
- 9.7 Unit heads also undertake monthly checks of CTL cases to check compliance and quality standards.

Adherence to custody time limits

- 9.8 There was one CTL failure in 2007-08 and two in 2008-09. Neither of the cases in 2008-09 failed because of the lack of effective monitoring. In each case, the expiry dates were properly monitored and applications to extend were made with appropriate notice, where relevant. However, they were refused by the court because it held that the prosecution had not acted with all due diligence. In both cases, more pro-active case management by the area might have avoided the result.
- 9.9 Both failures were duly reported to headquarters by the CCP in line with CPS national standards. Headquarters agreed and recorded the first CTL as failure for lack of due diligence and expedition and the second for avoidable delay. In each case the area circulated lessons learned to all its staff together with the DPP's letter. Training has been given and a further review of the area's systems and processes has been undertaken by the CTL champion. All staff are clear on their responsibilities with regards to dealing with CTLs and the consequences of any further failures.
- 9.10 In the Crown Court at Leicester, applications to extend custody time limits, where necessary, are required to be made nearer the expiry date, with proper notice. This means there is greater need for the prosecution to demonstrate that it has acted with all due diligence and greater risk over the extended period of time that it may fail to do so. However, in some cases and in some courts, it is practice to extend the custody time limit at plea and case management hearing when a trial date is fixed beyond the expiry date. That had in fact been done in respect of a co-defendant in one of the above cases with a different expiry date. The effect of this is that, unless there is a need for further extension, it obviates or reduces the need to show due diligence in case progress.
- 9.11 Clearly, this does not absolve any prosecutor of the responsibility to ensure that cases are managed proactively so that delay is avoided. It does mean, however, that the area is at greater risk than some others of custody time limit failures through lack of due diligence rather than failure to monitor properly.

10 THE SERVICE TO VICTIMS AND WITNESSES	OPA 2007	AI 2009	Direction of travel
	Poor	Fair	Improved

- 10.1 This aspect of performance was assessed as poor in the 2007 overall performance assessment (OPA) and, consequently and in recognition of the importance of this aspect of performance, the area has put victims and witnesses at the heart of its vision. The area business plan and priorities highlighted the importance of improving service to victims and witnesses. There is evidence that the area has implemented a number of changes to its own processes and systems to ensure that it can deliver a quality service. Additionally the area has worked with its partners to take action to improve the overall service offered.
- 10.2 The implementation of the optimum business model and the criminal justice: simple, speedy, summary initiative (CJSSS) have been instrumental in setting out clear processes between the witness care unit (WCU), the area and the magistrates' courts. Guidance and expectations have been produced to ensure that there is clarity of roles, and understanding of responsibilities. This has also allowed the area to monitor performance formally. Performance information is shared between the CPS and police managers with responsibility for the WCUs at local operational meetings and is producing improved results. Additionally the area has been able to use PROGRESS (the electronic case progression system) to set out expectations for witness care and how these must be adhered to before cases can be assessed as trial ready. There was evidence of a high level of contact with witnesses to keep them informed of progress in their cases in the file sample.

Meeting the needs of victims and witnesses

- 10.3 There was some evidence seen at charging observations and recorded on MG3s that victim and witness needs were discussed and assessed at the charging stage between the officer in the case and the duty prosecutor. File examination identified that there could be a more consistent approach to this.
- 10.4 As outlined in paragraph 3.9, duty prosecutors consider appropriate ancillary issues at the time of charging. This includes applications for special measures. The file sample showed that ancillary issues were addressed in 75.5% of cases and in one or two cases special measures applications were made out of time (although granted), overall there were no major concerns in this respect. In relevant cases which have not been subject to area pre-charge advice the lawyer in the 'pod' will draft special measures applications. The judiciary raised some concerns about the standard of the completion of applications in the Crown Court, although there was some recognition that there had been a recent improvement.
- 10.5 The file examination also highlighted that in 75% of appropriate cases there was a victim personal statement. File examination also showed that in cases which were to be discontinued the victim was consulted in 45.2% of cases although in 23.1% of cases the lawyer had not recorded the outcome.

Witness care units

- 10.6 A renewed focus on victim and witness care at the local criminal justice board (LCJB) level has improved the overall standard of witness care. As part of the change arrangements, the processes supporting witnesses in the magistrates' courts were examined and a number of the key processes have been re-engineered to ensure that witness care is handled effectively

between the WCUs and the criminal justice units. The area has clearly defined the roles between the WCUs and CPS relating to the notification of witnesses. The list of witnesses to attend court (LWAC) is used as a core document to transfer information between the CPS and the WCU. This process is mainly effective, although there still remains some scope for improvement.

- 10.7 Whilst there has been a noted improvement in witness care since the magistrates' courts WCUs have moved onto police divisions, there are a number of aspects where the processes are still bedding in. Some of the communication surrounding witness availability and the hand over in cases that are committed or sent from the magistrates' court to the Crown Court is still not fully effective. Inspectors observed some inconsistencies of practice across the WCUs which highlighted that there were some basic training needs yet to be met. There was an inconsistent approach to the recording of actions on the witness management system (WMS) which was having a detrimental impact in some cases; this was especially apparent in those cases that were transferred to the Crown Court. The need for further improvement was also evident from the number of ineffective trials due to witness issues; in the magistrates' court 7.2% of trials were ineffective due to prosecution witness absence or prosecution not being able to attend and 7% in the Crown Court.
- 10.8 Whilst area performance is slowly improving against the requirements of no witness, no justice (NWNJ), performance remains weak compared with other areas. It is possible that area performance is in fact better than reported. There has been a lack of awareness and consistency across the area in WCUs in the way that some actions are recorded on the system to the extent that it presents an inaccurate picture of performance. This is due in part to a lack of understanding by witness care advisers, and makes it difficult for the area to understand where processes need to be improved. The area has recently implemented some manual checks and systems to try to address this void. However, moving to implement more effective WMS usage would be a more efficient way of gathering this data and identifying training needs. The area has recognised this weakness and has plans in place to re-train WCU staff in using WMS.

RECOMMENDATION

The area, working with police partners, should ensure that WCU staff are trained to use WMS appropriately, understand their roles and why it is important to capture information.

The care and treatment of victims and witnesses at court

- 10.9 During the inspection we observed some very good interaction between witnesses and lawyers, associate prosecutors and caseworkers at court. Witness service (volunteers and managers) were very positive about how victims and witnesses are treated at court by the CPS and felt that this was something that was now embedded. There was a view expressed that agents used by the area were not as good as CPS staff, but in the majority of cases would do what was necessary.
- 10.10 The deployment of caseworkers in the Crown Court throughout the prosecution case ensures that there are effective processes in place during trials to allow victims and witnesses to be kept informed of developments.

10.11 In observations we saw a number of cases where the advocate was robust in agreeing evidence to avoid unnecessary attendance of witnesses. However, there were still some cases where more effective case preparation may have helped reduce the needs for witnesses to be called to trial, and in one case it was agreed that the evidence could have been read, after the witness had made a significant journey to attend court.

Direct communication with victims

10.12 At the time of the last report compliance with the direct communications with victims scheme (DCV) was increasing and letters were being sent in 87% of cases. The area now regularly exceeds the proxy target⁵. In some part, performance has improved as the numbers of letters that need to be sent has reduced. However, in the file sample, letters were sent in 75% of relevant cases.

10.13 Lawyers are responsible for the production of their own DCV letters. The lay inspector who assisted with this inspection highlighted that the standard of letter was mainly very good, with the majority expressing empathy and being drafted in a caring manner. However, there were also a number of letters where there were very obvious errors which highlighted a lack of care and attention. Whilst these cases were in the minority the area should ensure that its checking processes are robust enough to identify such letters and target training.

10.14 Compliance against the proxy target is good. Year to date performance shows 90.8% of letters are sent to vulnerable and intimidated victims within one working day and that 95.2% of letters are sent within five days for other victims. The effective use of case management system (CMS) means that most vulnerable victims and witnesses will be readily identifiable. This helps the area identify those who should be treated as a matter of priority and also ensures that the data produced on performance is accurate.

10.15 In line with CPS policy the area has offered to meet with the victim or the victim's family to explain the reasons for the decision to discontinue proceedings in appropriate cases. The area has held a number of such meetings in cases of road traffic fatalities and as a matter of course writes to the victim's family to explain decisions.

10.16 The area has held four pre-trial witness interviews. This is a recently introduced initiative which allows the prosecution to interview witnesses in controlled circumstances to assess the quality of their evidence. In all four cases this resulted in proceedings being discontinued at the earliest possible stage. The interviews identified that there were insurmountable witness difficulties which were likely to undermine the case.

5 Proxy targets are a measure calculated as a volume of letters sent as a proportion estimated which should have been sent.

11 MANAGING PERFORMANCE TO IMPROVE	OPA 2007	AI 2009	Direction of travel
	Fair	Good	Improved

Accountability and data analysis

- 11.1 The establishment of a robust management regime is one of the cornerstones of the area vision and was necessary to bring about cultural change to deliver improvement. At the time of the last inspection the performance framework was somewhat basic. The area has invested a significant amount of time and energy into producing what is now an effective performance management regime which gives assurance about performance to managers and is complemented by a structured process of personal performance management.
- 11.2 The area acted swiftly after the last inspection report to appoint an experienced performance officer. A police officer was seconded for a period of six months to the area to act in this role. Having a trained and capable performance officer helped kick start the process of improvement. The area is now supported by Group Operations Centre (GOC) performance manager (as part of the East Midlands group arrangements). Responsibility for the production of the area performance pack rests with the GOC performance manager who provides regular and extensive performance information.
- 11.3 A crucial part of instilling a performance culture within the area has been to communicate results and improve a general understanding at all levels. The area has managed to bring about this change. Monthly meetings between the chief crown prosecutor (CCP), area business manager (ABM) and each unit's managers to discuss agreed and analysed data was effective in starting the process. These regular meetings allow for discussion of the units' performance, monitor progress against the business plan and identify areas for improvement and further actions. The individual unit meetings are followed up with a monthly joint performance review meeting of all unit heads with the CCP and ABM where area performance is discussed against group and national data; area actions are identified, joint solutions proposed and good practice promulgated. This is good practice. Managers are prepared to be challenged in these meetings and there is a clear expectation that managers will attend with solutions to any problems. Additionally, the area also reviews its progress against the inspectorate data ranges on a quarterly basis. These processes have had the effect of galvanising the area to seek to improve as a cohesive whole.
- 11.4 To ensure that the performance process is effective all managers in the area have been allocated specific objectives and responsibilities for aspects of performance set out in the Area Governance Document. These were then replicated in the area and unit business plans 2008-09.
- 11.5 Performance is a regular standing item at team meetings. Individual performance feedback is given both verbally and by email, and unit heads produce specific feedback reports on both good and poor performance. These reports are analysed to identify trends and both general and individual training needs. Interviews with staff confirmed that there was a good understanding of area performance and that personal performance is now taken very seriously in the area.

- 11.6 Whilst there was evidence that case quality assurance checks (CQA) and adverse case reports were used to give feedback to individual lawyers and identify training needs, and trends were identified in monthly summary reports, the area needs to consider how it can work to disseminate general casework learning points across the area. A number of lawyers had sought feedback on the progression and outcomes of charging decisions they have made which could be used in inform future decision making. Sharing such information could help inform future charging decisions and enhance understanding of Crown Court practice.

Aspect for improvement

The area should further develop the sharing of lessons learned to help inform future charging decisions and enhance understanding of Crown Court practice.

Monitoring and quality assurance

- 11.7 Regular management checks are undertaken across the area. Area managers dip sample casework to assess a wide range of performance. General housekeeping standards, accuracy and processes are checked on a monthly basis. Managers use these checks to identify trends and individual training needs. There was good evidence of how this was being used in a constructive manner to drive up individual performance.
- 11.8 CQA checks and analysis of adverse case reports as well as regular dip sampling of files are used by unit heads to assess the performance of lawyers. Checks are made on charging advice (form MG3), the standard of file housekeeping, disclosure, direct communication with victims letters (DCV) and custody time limits. The casework managers use a similar process to assess the standard of work of caseworkers. The area has undertaken more than the required volumes of CQA checks. Inspectors noted that there were some inconsistencies between the standard of analysis undertaken between unit heads; whilst this can be understandable in terms of specific requirements, the area should consider developing a consistent approach. A number of staff highlighted that when they had moved unit, this lack of consistency had been noticeable. The area needs to guard against the perception that there could be differing standards being used to monitor individual performance.

Aspect for improvement

The area needs to ensure a consistent approach when checking standards across the area.

- 11.9 Monthly quality assurance checks are also undertaken by the business managers to check the case management system (CMS) for quality of data entry and timeliness such as flagging and finalisations. Other checks are undertaken on priority issues such as the systematic check of ten custody time limit (CTL) files a month to ensure all necessary actions are undertaken by the allocated lawyer and that all endorsements to diaries and files are accurate. File and systems checks confirm that flagging in the area is very good with all relevant flags recorded on our samples. In 86.3% of cases examined finalisations were correctly recorded and CTLs were correctly calculated in all cases.

- 11.10 Change initiatives have been used to consider the adequacy of operational systems. There is good evidence that performance improvement has been generated as a result of the implementation of system change.
- 11.11 There is effective use of personal development review (PDR) processes, with all staff having regular meetings. Specific objectives are used to drive improvement activity or allocate responsibility for aspects of work. The staff survey 2008 shows that 89% of staff had had a staff performance review in 2007-08, 21% better than the group results and 14% better than the overall CPS results. Specific objectives have been set to improve personal performance. The area should ensure that the appraisal process is used to raise standards and address some of the weaknesses we have identified within area decision-making and case handling, this is outlined in more detail at paragraph 11.8 above.

Joint performance management

- 11.12 The CCPs and ABMs for all areas in the East Midlands' group attend quarterly GOC performance meetings. Quarterly performance information is provided for the meetings by the GOC performance manager, which mainly focuses on the poorer performing aspects. Discussions centre on the impact of the individual area's performance on the overall group performance. The forum is used effectively for the exchange of good practice and lessons that have been learned at the strategic level. Monthly performance highlight reports are also provided to the group chair by the GOC performance manager.
- 11.13 Shared targets are monitored with criminal justice system (CJS) partners, and a number of performance reviews have been undertaken following recognition that improvement was required. The reviews have resulted in improved performance on matters such as persistent young offenders, criminal justice: simple, speedy, summary initiative, warrants, proceeds of crime and victim and witnesses, and have benefited CJS partners and the CPS including the area performance team (APT).
- 11.14 Recent changes in the governance structure of the local criminal justice board (LCJB) have been driven and supported by CPS Leicestershire. The CCP holds the portfolio for performance at the LCJB, and has agreed a new structure chairing the LCJB performance board which holds the two local delivery boards to account. The area is an effective partner in performance improvement activity within the CJS. Improvements in outcomes of all pre-charging benefits realisation targets and effective court listing are examples of a constructive and effective partnership approach.
- 11.15 Strong partnerships exist with the police, and the police produce their own monthly performance packs, which are used primarily at the CPS and police operational group meetings. The CPS play a full part in these meetings. Performance management with the magistrates' courts is developing in order to improve results.
- 11.16 Unit heads have half yearly meetings with the district judges, where performance of advocates is discussed as well as outcomes. Discussions with the magistrates' courts have now resulted in a reduction of court sessions reflecting a reduction in caseload. There are monthly meetings, chaired by the Resident Judge to discuss cracked and ineffective trials, and a review chaired by the Resident Judge has been set up to look at court listing issues. Case progression meetings take place weekly with the courts.

12 MANAGING RESOURCES	OPA 2007	AI 2009	Direction of travel
	Poor	Fair	Improved

Value for money and budget control

- 12.1 Budget controls have been substantially developed since the last overall performance assessment (OPA), with best practice from other areas used as models and templates. The area has a clear understanding and awareness of committed expenditure.
- 12.2 During the course of the year the area introduced new systems and processes, which once embedded will put the area in a strong position to take full advantage of improved forecasting and enable greater accuracy of budgeting. Checks of the systems confirmed that all accruals are recorded, along with estimated future expenditure; this allows the area to forecast expenditure more accurately. The area should, however, explore ways of reducing the unnecessary duplication of entries when populating the spreadsheets with data. As the system was only fully implemented in the early part of 2008-09, the area was not able to take full advantage of it in monitoring and controlling the budget for that year.
- 12.3 The budget is not devolved but is controlled by the area business manager (ABM) and managed centrally through the secretariat; however, roles are clearly defined at all levels. There are effective systems to communicate budget matters through the area strategic board (ASB) and the business development group (BDG) where staffing and other budget priorities are discussed and decisions made. Systems are in place to monitor and control non-ring fenced running costs (NRFRC); these were established to address weaknesses identified during the last inspection. The ABM and secretariat have developed new systems by adopting the good practice from another highly rated CPS area; the excel templates were adapted to meet the needs of the area.
- 12.4 The allocated budget at the beginning of the year was £5,221,382. With forecasting and by using its new systems the area became aware that it would under-spend (particularly as the area was due to receive an additional £23,000 of higher court advocacy savings earnings) and agreed with headquarters to transfer approximately £70,000 to the East Midlands group. However, the final outturn against the revised budget of £5,188,665, represented an over-spend of £14,183, £6,000 of which could not have been anticipated as it was due to meeting the cost of criminal damage to area offices late in the financial year.
- 12.5 The prosecution costs budget steadily increased during 2008-09, from an allocated budget in April 2008 of £1,447,700 to £1,991,019 in March 2009. By the end of the financial year the area had an under-spend of £284,236. The area has a large number of high cost cases which do not fall into the very high cost cases (VHCC) scheme, but can have a large impact on the budget. In October 2008, the area believed it needed additional funding for the outstanding cases still live in the system and monies were supplied by headquarters. The basis of the decision to request additional monies was flawed, in that it was based on an assumption that a case would take six weeks to finalise, and payment would then be requested and fall in the current year, when this was not the case. The area had not factored in the length of time it would take counsel to submit their invoices and has changed its processes as a result of this experience.

- 12.6 The timely payment of graduated fees (GFS) has declined over 2008-09. Areas are expected to pay fees to counsel in a timely manner once the fees note has been received. The timeliness of payments made within a month of the last hearing date fell from 82% in October 2008 to 56% in March 2009, this is worse than the national average of 62%. The area was below the national average for payment made within four months of the last hearing date, (80% cf 92%) in March 2009. Counsel are taking longer to submit their invoices and there have been some disputes which have caused delays. The area recognised that work was needed to ensure prompt receipt of invoices and better management of the prosecutions budget; the area is now reviewing these issues.

Aspect for improvement

Controls on prosecution costs and graduated fee scheme payments should be improved.

- 12.7 The area made successful bids for funding of £6,263; to improve security and upgrade the closed circuit television system. A bid for £8,047 was also successful and used on an intruder alarm. The area also secured funds of £11,686 for new furniture which was required as part of the office moves to facilitate the creation of the 'pod' in the county criminal justice unit. All the works and furniture were subject to tenders and purchased on best value principles. The area has adopted other sensible measures to reduce expenditure.

Deployment of staff

- 12.8 The area has been subject to a number of changes with the introduction of the optimum business model (OBM). The creation of the 'pods' as part of the OBM implementation has seen a significant reduction in the backlogs, that were evident at the time of the last inspection. Systems checks confirmed that staff were up-to-date with all aspects of work. The area has had a 2% reduction of staff in post since our last inspection.
- 12.9 Deployment of staff within the units is discussed by the area management team and the business development group. There has been recent discussion on current vacancies and the falling caseload. The area has taken a sensible decision not to replace staff as the fall in caseload has led to a reduction in the budget, but has used short term contracts (of between 6 and 8 weeks) effectively, as well as temporary contracts (up to a year), to replace staff. The staff survey of 2008 indicated that 61% of staff did not feel that there were enough staff to get the job done, although there was little indication from interviews to verify this and the figure is 7% better than the average finding for all CPS areas.
- 12.10 In-house court coverage, at 79.4%, is lower than national average (85.5%) and below the area's own target of 90%; it has also decreased from the previous year (81.2%). There has over the same period been a significant increase in use of associate prosecutors from 16.7% to 29.4%, ahead of target at 25%. This increase has enabled lawyers to be released to cover charging centres and to ensure the OBM 'pod' has sufficient resource; this has paid dividends in terms of case progression in the magistrates' courts. The priority attached to ensuring that lawyers are not abstracted from the 'pod', has come at the cost of high agent usage (20.6% cf national average of 14.7%, but reducing from 31.3% in 2007-08) which has also been compounded by a high level of sickness. The area needs to ensure that the right balance is struck between ensuring the 'pods' have appropriate resource and setting local targets for in-house coverage of lawyers to undertake trial advocacy.

Aspect for improvement

The area needs to ensure there are sufficient opportunities for crown prosecutors to undertake magistrates' courts trial advocacy

- 12.11 The area has used agents to good effect to cover for absences, periods of training, such as the staff training day and for the shortfall where staff have not been replaced. The agents' budget is carefully monitored under the new finance systems and only used as necessary. A maximum number of lawyers are allowed annual or flexi leave at the same time which cannot be exceeded; this helps in reducing the number of agents required.
- 12.12 Availability of staff within each unit is recorded electronically by the unit heads and accessed by the secretariat who in turn allocate lawyers to court coverage, charging stations or the 'pod'. Clear expectations are set for lawyer deployment with each lawyer allocated an average of eight court sessions per week.
- 12.13 The area has appointed a higher courts advocate (HCA) clerk to support the area HCA strategy. The area exceeded the HCA savings target during 2008-09, saving £236,387 against a target of £209,062 (113%). At an early stage the area identified that covering non-contested work alone would not be sufficient to meet the target and created a cadre of three lawyers, including a senior crown advocate, whose purpose is to prosecute cases in the Crown Court and increasingly undertake trial work. The area has also sought to develop all the other crown advocates in the trials unit under the Crown Court trial advocacy. The area recognises that it needs to increase Crown Court trial advocacy during the current year in order to achieve the target which in turn contributes to the area budget. The 2009-10 HCA strategy aims to achieve £313,000 in savings which is equivalent to 30% of its graduated fee scheme costs.
- 12.14 The area needs to set out a strategy to ensure that only appropriate trials are prosecuted in-house. In order to do so it will need to balance the need for development of less experienced advocates by conducting trials that are short and less complex, which is not always cost effective, against the more challenging trials which bring greater rewards in terms of HCA savings for the area. There is a national approach to the rotation of lawyers into and from trials units; however, the area needs to be careful that the lack of rotation locally does not result in the deskilling of some prosecutors. This approach may prevent lawyers outside the unit from exposure to Crown Court advocacy in terms of bail applications and preliminary hearings, and those crown advocates who have limited or no Crown Court trial experience are not honing or practising their trial skills, many of which are transferable, in the magistrates' courts. The area has tried to address this by moving two lawyers from the criminal justice units into the trials unit to gain experience of Crown Court preparation.
- 12.15 Area sickness absence has increased from 8.7 days to 10.8 days since the OPA. The area operates sickness monitoring systems in line with CPS guidance and has used the occupational health facilities to tackle some of the long-term sickness cases. There was evidence that short-term sickness was being addressed effectively and that sickness rates have been affected to some degree by a run of bad luck. Nevertheless, the position is very high compared to the national performance (10.8 days cf 8.5 days) and the area needs to look at innovative ways of reducing the sickness absence further.

Flexible working

- 12.16 Historically flexible working arrangements left the area in a position where it was not always able to

meet its business needs effectively. Business needs now take priority and action has been taken to ensure that working patterns harmonise with these; this included asking for volunteers to change their hours to suit the business requirements more. Flexi-time was limited in one of the 'pods' in line with operational requirements. The area is now in a better position, whilst still being able to retain a number of part-time staff and two members of staff who work term-time only. The staff survey 2008 indicated 25% of the staff who answered the survey took advantage of flexible working.

13 LEADERSHIP AND MANAGEMENT	OPA 2007	AI 2009	Direction of travel
	Fair	Good	Improved

Purpose and planning

- 13.1 During the inspection it was very obvious that staff in the area had a real understanding of what the area wanted to achieve, how they fitted into this and why it was important. There was a tangible feeling of pride, a desire to do a good job and, in many cases, evidence of going that extra mile to deliver a quality outcome.
- 13.2 The area has changed significantly since our last visit. It is obvious that the Chief Crown Prosecutor (CCP) and the area management team have worked hard to develop a set of clear key messages linked to a vision, complemented by area objectives. Area staff said that they felt bruised by the overall performance assessment (OPA) score, but could also understand that, although there was a lot of work going on in the area and that there was commitment, this was not galvanised effectively into positive outcomes or actions.
- 13.3 The OPA and its findings have been used as a route map which has been a catalyst to drive change. The senior team developed an area vision: 'Doing justice in every case'. Using this simple yet effective message along with a set of key priorities, staff could understand how what they did related to doing justice.
- 13.4 Linking the vision to three clear external messages has focussed activity and set clear priorities for the area. The area management team ensured that these priorities were linked to the CPS national vision but have tailored and communicated them in such a way to make them 'local'. The key priorities are:
- providing a first class service to the community the area serves;
 - victims and witnesses are at the forefront of the CPS' work and the area aims to provide them with an efficient and valued service; and
 - that the area strives to reduce crime and the fear of crime by dispensing justice fairly.
- 13.5 The vision and aims of the area are encapsulated in an area business plan. This plan outlines the objectives, priorities and strategic themes for the area, as well as highlighting the expected behaviours. The senior team also took a decision to produce unit business plans; these were developed at a staff planning day, where staff were tasked to produce objectives and milestones after facilitated presentations of the area priorities. Area and unit plans were reviewed regularly during the course of the year.
- 13.6 The most recent staff survey 2008 found that 90% of area staff were clear about what they were expected to achieve in their job which is 5% better than the CPS overall; 91% of area staff understood how their work contributed to the objectives of the team, 3% better than the CPS overall.
- 13.7 The area has also developed a number of action plans to focus attention on aspects of performance that required substantial improvement, for example, disclosure, custody time limits and charging. Priorities for improvement were driven by the OPA and the 2007 inspection report. Area champions are responsible for monitoring performance and ensuring that action is taken to improve. There were clear links within these action plans to the overall area and unit plans to

ensure that action was targeted and complementary. The area has also focussed the identification and management of risk on the weaker aspects of performance. Risks are reviewed as part of the business planning processes at the area strategic board; all risks have been allocated owners and proposed countermeasures.

Strength

The effective communication of a clear vision and message that has been fully accepted and understood by staff

Change management

- 13.8 The area has implemented a large number of change initiatives in order to deliver tangible results and drive improvement activity. Some of these changes have been driven by a need to deliver improvements to performance, for example, process improvements for charging, and others are as a result of the implementation of national initiatives such as criminal justice: simple, speedy, summary (CJSSS) and the optimum business model (OBM).
- 13.9 The area appointed a project manager to deliver the change programme; this approach worked in ensuring that there was a dedicated focus on planning for change, and the development of guidance and training required. The change manager was also pro-active in communicating change. As well as dedicated training and guidance being produced for those directly involved, the area newsletter Divulge is used to communicate general messages and changes to all staff.
- 13.10 The change portfolio is managed in such a way as to ensure that the area is able to identify and manage project interdependencies. Training for change is marshalled and delivered prior to implementation ensuring that this was fresh when staff had to operate new procedures. The change manager produced comprehensive guidance for changed processes accompanying the implementation of the 'pod' and OBM, as well as the changes required in victim and witness handling in criminal justice unit cases. The guidance outlined expectations and responsibilities, ensuring that staff were clear of what they should be doing and what was expected of them. These expectations were used to formulate management and process checks.
- 13.11 Staff engagement has been core to the successful delivery of the change initiatives and instilling the performance culture that now exists within the area. Senior managers set the overall vision for the area and provide leadership direction, but have used engagement with staff as the means to driving the area forward. The area has used area training events to challenge the area culture and outline expectations and behaviours; this has been very successful. Staff at all levels expressed that this approach was 'just what was needed' and 'asked some challenging questions about commitment'. The approach, which is on-going, has also been supplemented with the creation of focus groups. The facilitated groups, which are held at lunchtime, examine problems with working practices and consider solutions. The positive approach to working together to deliver improvement, and the inclusive methods used, have been very well received.

Staff skills and training

- 13.12 Training needs and priorities are set out in an area training plan; this is clearly linked to the area priorities as set out in the area business plan. The training has focussed on aspects of particular weakness as outlined in the OPA and those aspects identified through area monitoring. The area costed its plan and ensured, where it could, that training was delivered by area trainers or those from the East Midlands group to reduce training costs. There has been a focus on mandatory training needs and those aspects of need which would support current job roles. Staff survey findings were slightly better than the national picture for satisfaction of training received to undertake the job (49% cf 48%), also slightly more area staff felt that their induction training was effective (45% cf 44%).
- 13.13 The performance management regime has been core to the identification of areas of weakness and the targeting of training. This performance culture has allowed managers to identify problem aspects, as well as good performance. This approach of learning from each other and spreading good practice, was effective in driving improvement in a number of the administrative processes carried out across the different teams.

Communication

- 13.14 The area has developed a communications strategy which is key in ensuring that consistent messages are delivered. The strategy includes both internal and external communications. The area communications manager is responsible for the strategy and has worked with the senior management team to devise key corporate messages that are simple, yet effective, in driving a corporate message. There has been a substantial change in effective communication since the 2007 inspection. The staff survey shows that 84% of staff said that their unit had regular team meetings; this is 30% better than the national result (54%) and 44% better than the area result in 2006.
- 13.15 Managers are aware of the need for consistency of message. The CCP outlined her expectations of all managers when taking up post; these included respect and constructive challenge, but also the need to act corporately. The area produces a summary of key points, which outline discussions and decisions at area meetings; these ensure quick and effective communications. The summaries are no more than a page and are circulated to all staff within a day of the meeting taking place. Staff felt that these were effective in letting them know what was going on and filled the void prior to the next unit meeting, where there would be more detailed discussion of matters.
- 13.16 The staff survey indicated that there was a weakness in staff feeling able to speak up and challenge the way things are done. Whilst the area was better than national average, there had been a decline of 11% from the area result in 2006. This was a cause for concern so the first all staff training event was used to try to understand why there had been a change. A number of issues were identified; the area has implemented staff focus groups and unit white boards as a result of staff suggestions. Prior to the January 2009 staff training event, the area undertook a limited staff survey which indicated that there had been a change of 13%, positioning the area 2% better than the 2006 position and 15% better than all areas.
- 13.17 Criminal justice partners interviewed during the inspection were very positive about the role that the CPS is playing in supporting change and how the area is working to improve joint key priorities. There was evidence that relationships had much improved and were much more positive than during the last inspection. The senior management team was praised for being instrumental in changing the outlook of the CPS. It was felt that the area was more willing to

work with partners and more able to deliver on promises. The delivery of improvement in outcomes and performance was seen as very positive by criminal justice partners and the basis to building the relationship.

Ethics, behaviours and values

- 13.18 The last inspection report identified some key risks to the future of the area; the lack of a permanent senior team, no clear direction and vision, and the absence of the CCP and area business manager (ABM) from the main office location, being the three critical risks highlighted. As a consequence, substantial resources have been invested in addressing these key weaknesses. Coaching and mentoring has been used as a method to raise the standards of performance for key posts which has been successful and all managers have received leadership training. There is a clear understanding of expectations by managers across the whole area and where there were concerns about aspects of personal performance these are addressed using targeted training.
- 13.19 The area has a set of values which are set out in the area business plan; these are used as a basis of expectation. During interviews it was apparent that the area values were understood and that staff treated each other with respect.
- 13.20 Praise and thanks are part of the day-to-day norm within the area. The staff survey results show that there was a 15% improvement between 2006 and 2008 of those staff who believed there was an effective system of recognition. Area performance was 9% better than national results. The staff 'oscars', letters of thanks, special bonuses and recognition for doing a good job are all means of acknowledging good performance. Staff were keen to impress on inspectors that they felt valued and would willingly go the extra mile to deliver.

Strength

The approach to acknowledging good performance

Equality and diversity

- 13.21 While the area awaits the appointment of an equality and diversity officer within the East Midlands group, the ABM has continued to take responsibility for equality issues across the area. All managers are aware of their responsibilities and the area has continued to take account of equality and diversity matters within its planning.
- 13.22 The area has targets in place to address over representation in gender and although some recent recruitment has resulted in a change to the numbers, work is still ongoing to address the balance. Staff composition reflects the local population.

14 PARTNERSHIP WORKING AND COMMUNITY CONFIDENCE	OPA 2007	AI 2009	Direction of travel
	No direct comparator	Good	No direct comparator⁶

Joint working

- 14.1 As highlighted in the previous chapter the relationship with partners has improved since the last inspection. There are strong relationships with the police. The area has been able to build trust by working with the police to deliver improvements. A joint approach to analysing poor results for cases involving persistent young offenders (PYO) in late 2007 was effective in demonstrating how, through working together, performance could improve. The PYO figures improved from a high in 2007 of 82 days to 50 days.
- 14.2 There is also a constructive partnership approach with the magistrates' courts. The implementation of PROGRESS has been a catalyst for reinvigorating case progression. There are good informal links between the area and the magistrates' courts which allow for improvement to be discussed and action to be taken. The competing priorities (the utilisation of the outlying court estate and the area's need to drive efficiency of listing) have been sympathetically handled, with the area progressing matters in a manner that ensures both sides gain advantages.
- 14.3 There is a developing relationship with the senior judiciary and the Crown Court. Regular formal meetings, court user groups, and case progression meetings are held and allow the area to maintain a constructive approach. The Chief Crown Prosecutor (CCP) attends the formal liaison meeting with the Resident Judge on a regular basis. The appointment in June 2008 of a permanent trials unit head has had a positive impact with the court and the senior judiciary.
- 14.4 Joint initiatives have been successfully delivered and senior managers play an active role in the local criminal justice board (LCJB) and its sub-groups. The CCP has worked with the chair of the LCJB to change the governance structures of the board to focus on performance and accountability.
- 14.5 The implementation of criminal justice: simple, speedy, summary (CJSSS) and the 'pod' structures have enabled the area to assess the quality, accuracy and timeliness of police files. This, linked with the production of prosecutor team performance management (PTPM) data, has enabled specific weaknesses and performance trends to be highlighted. There is evidence that a strong partnership approach has allowed this form of scrutiny to be used effectively to drive up joint performance and address areas of weakness. This process is on-going and continues to enable partners to identify problems and discuss them in a constructive manner.
- 14.6 The area has actively engaged with community safety partnerships (CSPs). The CCP attends the Leicestershire and Rutland CSP programme board; this relationship is further consolidated by links between community safety and the LCJB. This engagement is used to connect overall strategy to operational delivery. There are also effective partnerships with Crime and Disorder Reduction Partnerships (CDRP). Senior managers attend a number of these across the area and there is some work being done jointly concerning victim and witness and public safety.

Engagement with the community

- 14.7 Community engagement has historically been a strength within the area. This remains the case. Since the last inspection the area has been at the forefront of the development of a number of community

⁶ The framework against which the area is inspected has been changed, some of the issues covered in this part of the report used to feature in Leadership – therefore the rating cannot be directly compared.

initiatives. To ensure that this activity is effective, and linked to area priorities, the area has developed a community engagement strategy, which is also aligned to the external communications strategy. Within the strategy, area engagement priorities have been established and all community activity is effectively marshalled and prioritised against key criteria. As well as the strategy, the area has a specific community engagement delivery group which consists of a cross section of staff. This group is responsible for implementing the actions set out in the area strategy and making recommendations for priorities. A large number of staff of all grades are involved in community engagement activity.

- 14.8 The area undertook a gap analysis as part of producing its engagement strategy. This assessed engagement against “why engage”, and the aims and value of engagement. This gap analysis identified priority actions related to how the area could build on a community justice project (Saffron Lane) to roll out community prosecutors. Findings from the community justice project are being used by CPS headquarters to consider how the model of community prosecutors can be rolled out nationally, with the area being a pilot for the community prosecutor initiative. The county criminal justice unit head has been key in ensuring that the area has used the experiences of the Saffron pilot to improve its own decisions and processes.

Strength

The approach to community engagement and the way this has been prioritised and used to improve area processes and outcomes.

- 14.9 The area has also used a variety of scrutiny panels to improve its processes. The hate crime scrutiny panel is grouped with CPS Nottinghamshire and this is used to look at specific cases. The area has also worked with a racial and religious review panel and a disability panel to assess its performance in these aspects of casework. There is evidence that the area is open to this challenge and has changed processes to improve outcomes and the way that hate crimes are dealt with.
- 14.10 The area communications manager has continued to work with the local media to ensure that relationships have been maintained and the area has been effective in reacting to bad news stories or misrepresentation. However, after the publication of the overall performance assessment the area took a decision to keep lines open with the local media, but not to be overtly pro-active, while they improved their performance and were in a better position to sell positive messages. Recently the area has trained three members of staff of different grades in media handling. This training was considered to be empowering and particularly appreciated as it spread the expertise to a range of grades and job holders in the area.
- 14.11 As a key part of the external communications strategy, and now that outcomes have improved and are showing sustainable improvement, the area has begun to send letters to key stakeholders highlighting performance and outlining key successes. Letters have been sent to MPs, other criminal justice partners and local authority contacts.
- 14.12 Community confidence in criminal justice agencies in Leicestershire and Rutland has been consistently higher than national average. The latest available data shows that public confidence in the criminal justice system in Leicestershire and Rutland for year ending March 2008 was 48.2% compared to 44.3% public confidence in the CJS nationally.

ANNEXES

A AREA INSPECTION FRAMEWORK

Standards and criteria

1 Pre-charge advice and decisions

Standard: *Pre-charge advice and decisions are of high quality and contribute to improved casework outcomes, and are delivered efficiently and in a way that meets the circumstances of the case.*

Criteria 1A: The quality of decision-making contributes to improving casework outcomes.

Criteria 1B: Pre-charge decision-making processes are effective and efficient.

2 Decision-making, preparation and progression in magistrates' courts' cases

Standard: *Magistrates' courts' cases are reviewed, prepared and managed to high standards so that hearings are effective, and the proportion of successful outcomes increases.*

Criteria 2A: Decision-making is of a high quality and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case.

Criteria 2B: Cases are prepared and progressed effectively.

3 Decision-making, preparation and progression in Crown Court cases

Standard: *Crown Court cases are continuously reviewed, prepared and managed to high standards, so that hearings are effective, and the proportion of successful outcomes increases.*

Criteria 3A: Decision-making is of a high quality and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case.

Criteria 3B: Cases are prepared and progressed effectively.

4 The prosecution of cases at court

Standard: *Prosecution advocates are prepared and proactive in prosecuting cases fairly, thoroughly and firmly and ensure that cases progress at all hearings.*

Criteria 4A: Advocates are active at court in ensuring cases progress and hearings are effective and advocacy and case presentation are of a high standard.

5 Serious violent and sexual offences, and hate crimes

Standard: *The area makes high quality decisions and handles serious violent and sexual offences, and hate crimes effectively.*

Criteria 5A: The area ensures that serious violent and sexual offences and hate crime cases are dealt with to a high standard.

6 Disclosure

Standard: *The area complies with the prosecution's duties of disclosure of unused material and disclosure is handled scrupulously.*

Criteria 6A: There is compliance with the prosecution's duties of disclosure.

7 Custody time limits

Standard: *In all cases, custody time limits are adhered to.*

Criteria 7A: The area ensures that all cases with a custody time limit are dealt with appropriately and time limits are adhered to.

8 The service to victims and witnesses

Standard: *The area considers victims' and witnesses' needs throughout the entirety of the prosecution process, and appropriate support is provided at the right time.*

Criteria 8A: The area ensures timely and effective consideration and progression of victim and witness needs and the service to victims and witnesses is improving.

9 Managing performance to improve

Standard: *The area systematically monitors, analyses and reports on performance, and uses performance information to promote continuous improvement and inform future decisions.*

Criteria 9A: Managers understand and are held accountable for performance.

Criteria 9B: There is an effective and proportionate approach to managing locally performance at individual, team and area level.

Criteria 9C: The area is committed to managing performance jointly with CJS partners.

10 Managing resources

Standard: *The area allocates and manages resources to deliver effective performance and provide value for money.*

Criteria 10A: The area seeks to achieve value for money, and operates within budget.

Criteria 10B: All area staff are deployed efficiently.

11 Leadership and management

Standard: *Senior managers engage with and inspire CPS staff and CJS partners to achieve area and national objectives, and drive performance improvements and change.*

Criteria 11A: The management team has a clear understanding of what needs to be delivered to meet CPS and CJS priorities, underpinned by effective planning and change management

Criteria 11B: The management team communicates the vision, values and direction of the area well.

Criteria 11C: Senior managers act as role models for the ethics, values and aims of the area and the CPS, and demonstrate a commitment to equality and diversity policies.

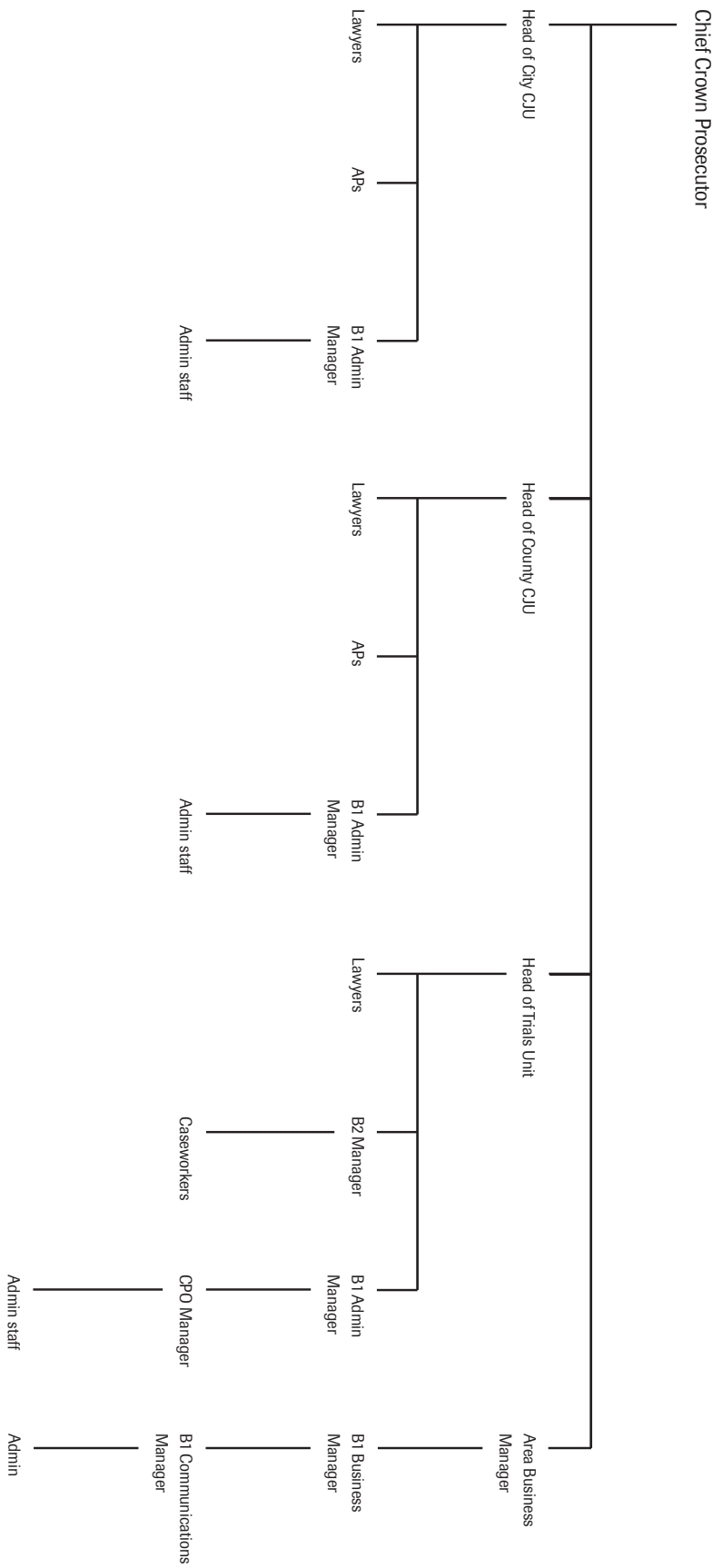
12 Partnership working and community confidence

Standard: *The CPS is engaging positively and effectively with the agencies it works with and communities it serves.*

Criteria 12A: The area is committed to engaging with partners and jointly improving levels of service.

Criteria 12B: The area is working proactively to secure the confidence of the community.

B ORGANISATIONAL STRUCTURE



C TABLE OF CASEWORK PERFORMANCE DATA

Caseloads and outcomes for 12 months ending 31 March 2009

	Leicester		National*	
	Number	Percentage	Number	Percentage
1. Magistrates' Court - types of case				
Pre-charge decision	7,729	32.2	532,464	33.9
Advice	0	0.0	198	0.0
Summary	10,496	43.8	602,195	38.3
Either way & indictable	5,758	24.0	432,340	27.5
Other proceedings	6	0.0	3,812	0.2
Total	23,989	100	1,571,009	100.0
2. Magistrates' Court - Completed cases				
Discontinuances and bind-overs	1,443	9.8	80,661	8.7
Warrants	242	1.6	15,060	1.6
Dismissed no case to answer	35	0.2	1,707	0.2
Acquittals: after trial	292	2.0	18,682	2.0
Discharged	46	0.3	1,984	0.2
Total unsuccessful outcomes	2,058	13.9	118,094	12.7
Convictions	12,708	86.1	810,605	87.3
Total	14,766	100	928,699	100
Committed for Trial In the Crown Court	1,488		105,790	
3. Magistrates' Court - Case results				
Guilty pleas	8,654	66.4	636,887	76.6
Proofs in absence	3,408	26.1	140,328	16.9
Convictions after trial	646	5.0	33,390	4.0
Acquittals after trial	292	2.2	18,682	2.2
Acquittals: no case to answer	35	0.3	1,707	0.2
Total	13,035	100	830,994	100%
4. Crown Court -Types of case				
Indictable only	548	27.7	40,498	29.1
Either way: defence election	108	5.5	7,614	5.5
Either way: magistrates' direction	726	36.7	55,315	39.7
Summary: appeals; committals for sentence	595	30.1	35,922	25.8
Total	1,977	100	139,349	100
5. Crown Court - Completed cases				
Judge ordered acquittals & Bind overs	169	12.2	12,061	11.7
Warrants	11	0.8	1,121	1.1
Judge directed acquittals	9	0.7	989	1.0
Acquittals after trial	49	3.5	5,693	5.5
Total Unsuccessful Outcomes	238	17.2	19,864	19.2
Convictions	1,144	82.8	83,552	80.8
Total	1,382	100	103,416	100
6. Crown Court - Case results				
Guilty pleas	1,020	84.9	75,661	83.8
Convictions after trial	124	10.3	7,891	8.7
Acquittals after trial	49	4.1	5,693	6.3
Judge directed acquittals	9	0.7	989	1.1
Total	1,202	100.0	90,234	100

*National includes 43+ Casework

D TABLE OF RESOURCES AND CASELOADS

Area caseload/staffing CPS Leicestershire and Rutland

	March 2009	August 2007
Staff in post	108.9	116.3
Lawyers in post (excluding CCP)	37.6	41
Pre-charge decisions/advices per lawyer (excluding CCP)	205.5	261.7
Associate prosecutors in post	8	7.6
Magistrates' courts' cases per lawyer and associate prosecutor (excluding CCP)	356.4	387.1
Magistrates' courts' contested trials per lawyer (excluding CCP)	25.9	27.9
Committals for trial and sent cases per lawyer (excluding CCP)	39.6	37
Crown Court contested trials per lawyer (excluding CCP)	4.8	5
Level B1, B2, B3 caseworkers in post (excluding associate prosecutors)	23.3	22.1
Committals for trial and sent cases per level B caseworker	63.9	68.7
Crown Court contested trials per level B caseworker	7.8	9.3
Level A1 and A2 staff in post	38	42.5
Cases per level A staff member	427.7	442.7
Running costs (non-ring fenced)	£5,174,482	£5,281,570

NB: Caseload data represents an annual figure for each relevant member of staff. Crown Court cases are counted within the magistrates' courts' cases' total. Where the advice is that proceedings should be instituted that case will also be included as a summary/either way/indictable only case in the statistics relating to the magistrates' courts or the Crown Court as appropriate.

E TABLE TO SHOW TOTAL NUMBER OF FILES EXAMINED FOR CPS LEICESTERSHIRE AND RUTLAND

	Number of files examined
Magistrates' courts' cases (subject to PCD)	
Guilty pleas	8
Convictions after trial (including 3 youth cases)	8
Acquittals after trial (including 2 youth cases)	9
Discontinued cases	10
No case to answer	2
Magistrates' courts' cases (non-PCD)	
Convictions after trial	4
Acquittals after trial	2
Crown Court cases	
Guilty pleas	13
Judge ordered acquittals	11
Judge directed acquittals	3
Convictions after trial	2
Acquittals after trial	8
Total	80

F LIST OF LOCAL REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES AND ORGANISATIONS WHO ASSISTED IN OUR INSPECTION

Crown Court

His Honour Judge Pert QC

Magistrates' Courts

District Judge Holland

District Judge Meredith

Mr R Redgrave, Area Director, HM Courts Service

Mr A G Parker JP, Chair of Leicester Magistrates' Court

Mrs J E Collier JP, Chair of Loughborough Magistrates' Court

Mrs P A Morley JP, Chair of Melton Mowbray Magistrates' Court

Mrs J A Hicks JP, Chair of Market Bosworth at Hinckley Magistrates' Court

Mr N Watson OBE, Clerk to the Justices

Ms B Hymers, Crown Court Manager

Ms A Popper, Crown Court Staff

Ms S Tanner, Crown Court Staff

Mrs K Finn, Court Manager

Mrs A Palmer, Legal Advisor

Police

Mr M Baggott, Chief Constable

Assistant Chief Constable C Eyre

Chief Superintendent C Garnham

Superintendent S Harrod

Defence Solicitors

Miss I Cox

Mr C Black

Miss E Sandbanks

Counsel

Mr T Spencer QC

Mr C Donnellan QC

Witness Service

Ms J Sutton

Ms A Cathie

Ms Z Robertson

Victims and witnesses at court

Local Crime and Disorder Reduction Partnerships

Mrs D Pancholi

Mr R E Grantham

Mrs T Gaskin

Probation Service

Mrs H Munro, Chief Officer of Probation

Youth Offending Teams

Mr G Moloney

Mr D Thrussell

Community Groups

Mr H Duale, Leicester Somali Community Spokesperson

Ms S Kaur, Domestic Violence Project Co-ordinator

Ms A Chavda, Hate Incident Monitoring Project Officer

Members of Parliament

Patricia Hewitt MP

Members of Parliament with constituencies in Leicestershire and Rutland were invited to contribute.

G HMCPSI PURPOSE AND VALUES

Purpose

HMCPSI's purpose is to enhance the quality of justice through independent inspection and assessment which improves the effectiveness of prosecution services and provides assurances to Ministers, government and the public. In order to achieve this we want to be an organisation which:

- performs to the highest possible standards;
- inspires pride;
- commands respect;
- works in partnership with other criminal justice inspectorates and agencies but without compromising its robust independence;
- values all its staff; and
- seeks continuous improvement.

Mission

HMCPSI strives to achieve excellence in all aspects of its activities and in particular to provide customers and stakeholders with consistent and professional inspection and evaluation processes, together with advice and guidance, all measured against recognised quality standards and defined performance levels.

Values

We endeavour to be true to our values, as defined below, in all that we do:

- | | |
|------------------------|---|
| consistency | Adopting the same principles and core procedures for each inspection, and apply the same standards and criteria to the evidence we collect. |
| thoroughness | Ensuring that our decisions and findings are based on information that has been thoroughly researched and verified, with an appropriate audit trail. |
| integrity | Demonstrating integrity in all that we do through the application of our other values. |
| professionalism | Demonstrating the highest standards of professional competence, courtesy and consideration in all our behaviours. |
| objectivity | Approaching every inspection with an open mind. We will not allow personal opinions to influence our findings. We will report things as we find them. |

Taken together, these mean:

We demonstrate integrity, objectivity and professionalism at all times and in all aspects of our work and that our findings are based on information that has been thoroughly researched, verified and evaluated according to consistent standards and criteria.

H GLOSSARY

Adverse case

A *NCTA*, *JOA*, *JDA* (see separate definitions) or one where magistrates decide there is insufficient evidence for an either way case to be committed to the Crown Court.

Agent

Solicitor or barrister not directly employed by the CPS who is instructed by them, usually on a sessional basis, to represent the prosecution in the magistrates' courts.

Area business manager (ABM)

Senior business manager responsible for finance, personnel, business planning and other operational matters.

Area strategic board (ASB)

The senior legal and non-legal managers of an area.

Aspect for improvement

A significant weakness relevant to an important aspect of performance (sometimes including the steps necessary to address this).

Associate prosecutor

A senior caseworker (level B2) who is trained to present straightforward cases on pleas of guilty or to prove them where the defendant does not attend the magistrates' court. This role has been extended and will include trials of non-imprisonable offences.

Bar/CPS service standards

Jointly agreed standards that lay down what is expected in terms of performance by the Bar and the CPS in the way they deal with each other.

Standard 1 (August 1994) requires the CPS brief to counsel to be delivered within 14 days of committal in standard fee cases and 21 days in cases involving trials of three days or more and pleas of guilty to serious offences.

Standard 2 (August 1994) provides that counsel, having read and considered the papers, will where necessary advise in writing on any matter requiring advice.

Standard 3 (October 1996) concerns returned briefs and is designed to reduce the numbers of returns and any adverse impact which may result because of a returned brief.

Standard 4 (October 1996) deals with the timely claim of fees by, and payment of fees to, counsel at the end of a case.

Casework quality assurance (CQA)

A system of management checks carried out in CPS areas to assess the quality of casework; each area should undertake at least one check per lawyer per month. The scheme is directed to ensure that different aspects of casework is assessed.

Caseworker

A member of CPS staff who deals with or manages day-to-day conduct of a prosecution case under the supervision of a crown prosecutor and, in the Crown Court, attends court to assist the advocate.

Charging scheme

The Criminal Justice Act 2003 took forward the recommendations of Lord Justice Auld in his Review of the Criminal Courts, so that the CPS will determine the decision to charge offenders in the more serious cases. 'Shadow' charging arrangements were put in place in areas and the statutory scheme had a phased roll-out across priority areas and subsequently all 42, the last being in April 2006.

Charging standards

Standards agreed with the police that give guidance about how to select the appropriate charge to be pursued, determined by the facts of the case.

Charging standards have been issued about:

- offences against the person;
- driving offences; and
- public order offences.

Chief crown prosecutor (CCP)

One of 42 chief officers heading the local CPS in each area, is a barrister or solicitor. Has a degree of autonomy but is accountable to the Director of Public Prosecutions for the performance of the area.

Code for Crown Prosecutors (the Code)

The public document that sets out the framework for prosecution decision-making. Crown prosecutors have the Director of Public Prosecutions' power to determine cases delegated, but must exercise them in accordance with the Code and its two stage test – evidential and public interest. Cases should only proceed if, firstly, there is sufficient evidence to provide a realistic prospect of conviction and, secondly, if the prosecution is required in the public interest (see also *Threshold test*).

Committal

Procedure whereby a defendant in an either way case is moved from the magistrates' court to the Crown Court for trial, usually upon service of the prosecution evidence on the defence, but occasionally after consideration of the evidence by the magistrates.

Compass CMS

IT system for case tracking and management used by the CPS. Compass is the new comprehensive system used in all areas.

Complex casework unit (CCU)

A group (a combination of CPS areas) unit which deals with specialist and complex cases; cases referred are usually defined by the nature of the crime and are mainly governed by a referral protocol.

Court session

There are two sessions each day in the magistrates' courts, morning and afternoon.

CPS Direct

A scheme to supplement the advice given in areas to the police and the decision-making as to charge under the *Charging scheme*. Lawyers are available on a single national telephone number out of normal office hours so that advice can be obtained at any time. It is available to all areas.

Cracked trial

A case listed for a contested trial which does not proceed, either because the defendant changes their plea to guilty, pleads to an alternative charge, or the prosecution offer no evidence.

Criminal case management framework

Provides practitioners with a consistent guide to their own and their partners' roles and responsibilities, together with operational guidance on case management.

Criminal Justice: Simple, Speedy, Summary (CJSSS)

Initiative introducing more efficient ways of working by all parts of the CJS, working together with the judiciary, so that cases brought to the magistrates' courts are dealt with more quickly. In particular it aims to reduce the number of hearings in a case and the time from charge to case completion.

Criminal justice unit (CJU)

Operational unit of the CPS that handles the preparation and presentation of magistrates' courts' prosecutions. The *Glidewell* report recommended that police and CPS staff should be located together and work closely to gain efficiency and higher standards of communication and case preparation. (In some areas the police administration support unit is called a CJU.)

Crown advocate

In this context, a lawyer employed by the CPS who has a right of audience in the Crown Court.

Crown Court case preparation package

A word processing package that provides a template for standard instructions in a brief to counsel. There is a free text facility to allow CPS staff to advise counsel about particular aspects of an individual case. *Compass CMS* should now be used.

Custody time limits (CTLs)

The statutory time limit for keeping a defendant in custody awaiting trial. May be extended by the court in certain circumstances.

Direct communication with victims (DCV)

The CPS writes directly to a victim of crime if a case is dropped or the charges reduced in all seriousness. In some instances a meeting will be offered to explain this.

Disclosure, *initial and continuing*

The prosecution has a duty to disclose to the defence material gathered during the investigation of a criminal offence which is not intended to be used as evidence against the defendant, but which may be relevant to an issue in the case. Initial disclosure is given where an item may undermine the prosecution case or assist that of the defence. In the magistrates' courts the defence may serve a defence statement and this must be done in the Crown Court. The prosecution has a continuing duty of disclosure in the light of this and developments in the trials. (Duties of primary and secondary disclosure apply to cases investigated before 4 April 2005.)

Discontinuance

The dropping of a case by the CPS in the magistrates' courts, whether by written notice (under section 23, Prosecution of Offences Act 1985), withdrawal, or offer of no evidence at court.

Early administrative hearing (EAH)

Under *Narey* procedures, one of the two classes into which all summary and either way cases are divided. EAHs are for cases where a not guilty plea is anticipated.

Effective trial management programme (ETMP)

This initiative, involving all criminal justice agencies working together, aims to reduce the number of ineffective trials by improving case preparation and progression from the point of charge through to the conclusion of a case.

Either way offences

Those triable in either the magistrates' courts or the Crown Court, eg theft, assault occasioning actual bodily harm.

Evidential stage

The initial stage under the *Code* test – is there sufficient evidence to provide a realistic prospect of conviction on the evidence?

Good practice

An aspect of performance upon which the Inspectorate not only comments favourably but considers that it reflects a manner of handling work developed by an area which, with appropriate adaptations to local needs, might warrant being commended as national practice.

Group operations centre (GOC)

A unit within the group (combination of a number of CPS areas) which is responsible for dealing with specific aspects of business on behalf of areas, for example, performance management and monitoring, equality and diversity.

Indictable only offences

Offences triable only in the Crown Court eg murder, rape, robbery.

Ineffective trial

A case listed for a contested trial that is unable to proceed when it was scheduled to start, for a variety of possible reasons, and is adjourned to a later date.

Instructions to counsel

The papers which go to counsel setting out the history of a case and how it should be dealt with at court, together with case reports. These are sometimes referred to as the brief to counsel.

Joint performance management (JPM)

A management system that collects information about aspects of activity undertaken by the police and/or the CPS. It is a joint system with the police, aimed at securing improvements in performance. Largely replaced by *PTPM*.

Judge directed acquittal (JDA)

Where the judge directs a jury to find a defendant not guilty after the trial has started.

Judge ordered acquittal (JOA)

Where the judge dismisses a case as a result of the prosecution offering no evidence before a jury is empanelled.

Level A, B, C, D, E staff

CPS grades below the senior civil service, from A (administrative staff) to E (senior lawyers or administrators).

Local criminal justice board

The chief officers of police, probation, the courts, and the CPS, a local prison governor and the youth offending team manager in each criminal justice area who are accountable to the National Criminal Justice Board for the delivery of *PSA* targets.

MG6C, MG6D etc

Forms completed by police relating to unused material. MG is the national Manual of Guidance used by the police and CPS.

Narrowing the justice gap (NJG)

A government criminal justice *PSA* target to increase the number of offences for which an offender is brought to justice; that is offences which result in a conviction, a caution or which are taken into consideration when an offender is sentenced for another matter, a fixed penalty notice, or a formal warning for possession of drugs. The difference between these offences and the overall number of recorded offences is known as the justice gap.

No case to answer (NCTA)

Where magistrates dismiss a case at the close of the prosecution evidence because they do not consider that the prosecution have made out a case for the defendant to answer.

No Witness No Justice (NWNJ)

A project to improve witness care: to give them support and the information that they need from the inception of an incident through to the conclusion of a criminal prosecution. It is a partnership of the CPS and the Association of Chief Police Officers (ACPO) and also involves Victim Support and the Witness Service. Jointly staffed witness care units were introduced into all areas by December 2005.

Optimum business model (OBM)

System of processes implemented within the CPS to ensure that cases in the magistrates' court receive systematic attention and progression.

Overall performance assessment (OPA)

An assessment of performance carried out at area level by the inspectorate which rates overall performance. Each aspect of performance is scored and an overall assessment made. These have been carried out in 2005 and 2007.

Performance against targets

Measures of performance against targets set nationally and locally in support of CPS objectives.

Performance indicators (PIs)

Internal statistics collected in the CPS that indicate how much and what type of work is undertaken and processed and the outcomes of that work. They also contain information about the quality of judgements in cases.

Persistent young offender (PYO)

A youth previously sentenced on at least three occasions in the last three years.

Pre-trial review

A hearing in the magistrates' court designed to define the issues for trial and deal with any other outstanding pre-trial issues.

Proceeds of Crime Act 2002 (POCA)

Contains forfeiture and confiscation provisions and money laundering offences, which facilitate the recovery of assets from criminals.

PROGRESS

An IT system which is used by the Courts, CPS and defence to undertake case progression functions.

Prosecution team performance management (PTPM)

Joint analysis of performance by the CPS and police locally that has largely replaced the system of *JPM*.

Public interest stage

The second stage under the *Code* test - is it in the public interest to prosecute this defendant on this charge?

Public Service Agreement (PSA) targets

Targets set by the government for the criminal justice system relating to dealing with serious offences and raising public confidence in the system.

Recommendation

Normally directed towards an individual or body and sets out steps necessary to address a significant weakness relevant to an important aspect of performance (ie an *aspect for improvement*) that, in the view of the Inspectorate, should attract highest priority.

Returned briefs

A returned brief (see *Instructions to counsel*) is one returned by a barrister to their instructing solicitor (the CPS) when they discover they are unable to undertake the work. This can occur very close to the date of the trial.

Review, initial, continuing, summary trial etc

The process whereby a crown prosecutor determines that a case received from the police satisfies and continues to satisfy the legal test for prosecution in the *Code*. One of the most important functions of the CPS.

Section 9, Criminal Justice Act 1967

A procedure for serving statements of witnesses so that the evidence can be read to the court, rather than the witness attend in person.

Section 51, Crime and Disorder Act 1998

A procedure for fast tracking indictable only cases to the Crown Court, which now deals with such cases from a very early stage – the defendant is sent to the Crown Court by the magistrates.

Sensitive material

Any relevant material in a police investigative file not forming part of the case against the defendant, the disclosure of which may not be in the public interest.

Specified proceedings

Minor offences which are dealt with by the police and the magistrates' courts and do not require review or prosecution by the CPS, unless a not guilty plea is entered (section 3 (2) (A), Prosecution of Offences Act 1985).

Strengths

Work undertaken properly to appropriate professional standards ie consistently good work.

Summary offences

Those triable only in the magistrates' courts eg most serious motoring offences, common assault etc.

Threshold test


The *Code for Crown Prosecutors* provides that where it is not appropriate to release a defendant on bail after charge, but the evidence to apply the full Code test is not yet available, the threshold test should be applied. There must be at least a reasonable suspicion that the suspect has committed an offence and it is in the public interest to charge the suspect, to meet the test. A number of factors, including the likelihood and nature of further evidence to be obtained, must be considered.

Trial unit (TU)

Operational unit of the CPS which prepares cases for the Crown Court.

Witness care units (WCUs)

Units responsible for managing the care of victims and prosecution witnesses from the point of charge to the conclusion of a case. Staffed by witness care officers and other support staff whose role it is to keep witnesses informed of progress during the course of their case. Units are often staffed with a combination of police and CPS staff (joint units).



If you ask us, we can provide a synopsis or complete version of this booklet in Braille, large print or in languages other than English.

For information or for more copies of this booklet, please contact our Publications Team on 020 7210 1197, or go to our website: www.hmcpai.gov.uk

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